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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 91 (PKC)

5 SCOTT TUCKER and  
6 TIMOTHY MUIR,

Trial

7 Defendants.

-----x

8 New York, N.Y.  
9 September 26, 2017  
10:15 a.m.

10 Before:

11 HON. P. KEVIN CASTEL

12 District Judge  
13 and a jury

14 APPEARANCES

14 JOON H. KIM  
15 Acting United States Attorney for the  
16 Southern District of New York  
17 BY: NIKETH V. VELAMMOOR  
18 HAGAN C. SCOTTEN  
19 SAGAR K. RAVI  
20 Assistant United States Attorneys

21 FREEMAN NOOTER & GINSBERG  
22 Attorneys for Defendant Tucker

23 BY: LEE A. GINSBERG  
24 NADJIA LIMANI

25 -and-

STAMPUR & ROTH

BY: JAMES M. ROTH

22 BATH & EDMONDS, P.A.  
23 Attorneys for Defendant Muir

24 BY: THOMAS J. BATH  
25 -and-

BEVERLY VAN NESS

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(Trial resumed)

THE COURT: Please be seated.

First of all, I want to thank the government for being attentive to my comments of late yesterday, and I very much appreciate the letter I received. As a result, I think the comments I begin this morning with are different than what they might otherwise have been had the government not sent that letter, so thank you.

With regard to the witness, why don't you tell me on the record what has transpired. I understand there is a medical issue with regard to the witness who is presently on the stand.

MR. RAVI: Your Honor, while the witness was being brought upstairs in order to get back on the stand, she was brought to the fifth floor of the courthouse first, at which time she told Agent Praiswater that she wasn't feeling OK, she wasn't sure what was happening, and then she later experienced what appeared to be a seizure. She was then placed on a bench laying down and medics were called to the scene.

She has been now taken to Downtown Presbyterian for care. An FBI agent is currently trying to get a hold of her family and is going to be in touch with the hospital to ensure she's OK and give us any status updates, as we learn more information.

THE COURT: OK. And I think in this trial you have to

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1 be prepared for all contingencies, so one contingency is she is  
2 well enough to come back and resume cross-examination. Another  
3 contingency is she is not and you have to figure out what  
4 you're going to do in that eventuality.

5 We are still missing a juror, is that correct, Madam  
6 Deputy?

7 THE DEPUTY CLERK: Yes.

8 THE COURT: We will be in recess then until our juror  
9 arrives. The juror, by the way, had called to indicate that  
10 they were delayed in transit, and they indicated to my law  
11 clerk that they expected to be delayed by 15 minutes. I think  
12 that these jurors have been so wonderful in their attentiveness  
13 to the schedule that I'm inclined to wait a few more minutes.

14 Mr. Ginsberg.

15 MR. GINSBERG: Yes, there are a couple of small  
16 issues, as long as we have this time, I want to raise and bring  
17 to the Court's attention and see how the Court wants to proceed  
18 with it.

19 We, the defense, have spoken to the government about  
20 requesting an instruction from the Court regarding Don Brady's  
21 unavailability as a witness. I proposed some language, and the  
22 government's position is that they believe the only thing  
23 necessary is what would be the standard charge regarding  
24 unavailable witnesses, available or unavailable to both sides.

25 We think that this is a unique situation because of

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1 his medical issue, he can't testify, so he's not ever really  
2 available to us, and given the nature of the specific testimony  
3 in this case, frankly, a lot of which is coming from the  
4 current witness, Ms. Williams, we have a proposed instruction,  
5 which we would give to the Court and ask, first of all, for the  
6 Court's consideration to give it either at some point during  
7 the trial or as part of the jury instructions, It's very short,  
8 and I'll just read it so the Court has an idea. Simply:

9 "Members of the jury, I wish to advise you that  
10 because of Don Brady's physical and mental health, including  
11 dementia, he is unable to testify in this proceeding."

12 Now, I understand what the general charge is and I  
13 understand what the basis is behind the general charge, but we  
14 do believe this is a very unique situation. This is not like a  
15 case where the defendant's going to get up and argue the  
16 government could have called 20 more eyewitnesses to a crime or  
17 20 more FBI agents. This person would have been a critical  
18 witness, in our view, that could have contradicted much of what  
19 Ms. Williams is saying, and we are just unable to call him,  
20 even though we would have liked to do it, even though we would  
21 have taken our chances as to what his answers may have been.

22 THE COURT: All right. I'd be delighted to consider  
23 it, and if you have any case law support for it, that's also  
24 fine. I think one of the thoughts that crossed my mind is,  
25 would it cause jurors to begin to speculate? Speculation would

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1 run along these lines:

2 Mr. Brady has some form of dementia. I wonder how  
3 long he had this form of dementia. Maybe he had this form of  
4 dementia when he made the statements on the tape.

5 And that begins a chain of speculation. Now, I'll be  
6 happy to consider it. I'll hear what the government has to  
7 say. I'll see what you have for me, and then I will at some  
8 point make a ruling. OK?

9 MR. GINSBERG: If the Court would consider an  
10 instruction, if dementia is an issue for the Court, our  
11 second-level position would be to remove that portion, just say  
12 he is physically unable to testify at this trial. That's an  
13 alternative possibility.

14 THE COURT: He's not available for medical reasons.

15 MR. GINSBERG: Yes, exactly. Something along those  
16 lines.

17 THE COURT: All right. Let me consider it, and again,  
18 if you have any wisdom, because I suspect that's a very common  
19 reason why witnesses are not available to testify at trial.

20 Madam Deputy, our jury is here?

21 THE DEPUTY CLERK: Yes.

22 THE COURT: Bring them in, please.

23 MR. VELAMOOR: We intend to offer two emails before we  
24 call the witness to the stand and then call the witness.

25 THE COURT: You have other witnesses ready now?

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1 MR. VELAMMOOR: Yes.

2 THE COURT: OK. Thank you. Bring our jury in.

3 (Continued on next page)

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(Jury present)

THE COURT: Please be seated.

Good morning, ladies and gentlemen. One update for you is, as I've indicated, we're keeping the case on schedule and we remain on schedule, so we are not going any longer than we originally predicted. I anticipate that the government may rest its case by the end of the day Thursday. That's a good faith approximation, and that's all it is. It could change.

Now, one of the things that may cause that to change slightly -- and I hope not -- is that a medical situation has arisen with regard to the witness who was on the stand yesterday. We hope that she will be well enough to continue at a later point, but in the meantime, the government has other witnesses who they will call and some exhibits, I gather, they wish to offer.

Without further ado, let's get to work.

MR. VELAMOOR: Thank you, your Honor. At this time the government offers Government Exhibits 2601 and 2602.

THE COURT: Any objection?

MR. GINSBERG: Not as to 2601, your Honor.

No objection as to 2602.

THE COURT: All right. They're both received.

(Government Exhibits 2601-2602 received in evidence)

MR. VELAMOOR: May I at this time show 2601 to the jury. I'll ask you to start on the second page and just

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1 highlight the signature, please.

2 OK. Move to the previous page and just highlight the  
3 bottom email. Just highlight the subject, please.

4 We can move out of that and highlight the middle  
5 email. Highlight the "from" and "to." Highlight the paragraph  
6 beginning --

7 THE COURT: One second, please.

8 MR. VELAMOOD: Sorry.

9 THE COURT: Go ahead.

10 MR. VELAMOOD: Thank you.

11 Highlight the paragraph beginning "This is under the  
12 understanding." And then the next paragraph, beginning "Blaine  
13 and I." And then the paragraph with the stars, the line with  
14 the stars. And then just quickly the top email.

15 Now let's move to 2602. Let's highlight the middle  
16 email, "from," all the way across. And just the first sentence  
17 in the first paragraph. And then just the first --

18 THE COURT: Wait a minute. Wait a minute.

19 MR. VELAMOOD: Sorry, your Honor.

20 THE COURT: OK.

21 MR. VELAMOOD: Thank you.

22 Just the first two sentences of the next paragraph.

23 Now move to the email above and just highlight the  
24 sentence beginning "Can you send."

25 Lastly, the top email, the "from," "to," and the



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Smith - Direct

1 substance.

2 Thank you, Judge.

3 At this time the government calls Peter Smith.

4 THE COURT: All right.

5 ROBERT PETER SMITH,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 THE COURT: You may inquire.

9 MR. VELAMOOR: Thank you, your Honor.

10 DIRECT EXAMINATION

11 BY MR. VELAMOOR:

12 Q. Mr. Smith, where are you from?

13 A. Kansas City.

14 Q. How old are you?

15 A. I'm 71 years old.

16 Q. What do you do for a living?

17 A. I'm a lawyer.

18 Q. What kind of practice do you have?

19 A. I have a civil practice that encompasses about everything.

20 I am probably best known as a trial lawyer.

21 Q. Do you work for a firm?

22 A. Yes.

23 Q. What's the name of your firm?

24 A. McDowell, Rice, Smith & Buchanan.

25 Q. Are you the Smith in that firm?

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Smith - Direct

1 A. Yes, I am.

2 Q. I'm going to turn your attention to 2009. Were you at that  
3 time retained to represent Mr. Tucker in connection with any  
4 matters?

5 A. Yes, I was.

6 Q. Briefly speaking, what was that matter about?

7 A. It was a shareholder dispute between Mr. Tucker and a  
8 gentleman named Charles Hallinan over ownership and money  
9 distributed from a business.

10 Q. You said it was a dispute over ownership?

11 A. Yes.

12 Q. Do you recall what the entity that they were disputing  
13 ownership over was?

14 A. I think it was a company called NM Service. It was a  
15 lending company.

16 Q. Do you recall which kind of lending?

17 A. They do consumer lending. I think you call it payday  
18 lending probably.

19 Q. In the course of that work, did you become familiar with  
20 someone named Tim Muir?

21 A. Yes, I did.

22 Q. Who was Tim Muir?

23 A. Tim Muir was Scott Tucker -- Tim Muir had a firm called  
24 Muir Law Firm, and he was a lawyer for Scott Tucker and for  
25 Scott Tucker's businesses.

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Smith - Direct

1 Q. And did you come in contact with Mr. Muir in connection  
2 with this matter involving Mr. Hallinan?

3 A. Yes.

4 Q. Now, without, obviously, going into any privileged  
5 conversations you may have had with Mr. Tucker, Mr. Tucker was  
6 your client, correct?

7 A. Mr. Tucker was my client.

8 Q. You understood in this context Mr. Muir was also  
9 representing Mr. Tucker?

10 A. Yes, he was cocounsel.

11 Q. Without going into any privileged conversations, you said  
12 it was a dispute over ownership. Who had brought the action  
13 against who?

14 A. Charles Hallinan was the plaintiff, and he'd brought an  
15 action under a stockholder's agreement alleging that he thought  
16 Mr. Tucker had taken the business from him.

17 Q. Now, in the course of that matter that you were working on,  
18 did you at any point see any emails that had been exchanged  
19 between Mr. Tucker and Mr. Hallinan prior to you becoming  
20 involved?

21 A. Yes.

22 Q. Did those emails generally relate to the same dispute  
23 between Mr. Tucker and Mr. Hallinan?

24 A. Yes.

25 Q. I'm showing you what's been marked as Government Exhibit

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Smith - Direct

1 2615. Have you had a chance to look at 2615?

2 A. Yes, I have.

3 Q. Is that one of the emails that we just discussed?

4 A. Yes.

5 Q. And again, who is it an email from and to?

6 A. It's an email -- it's a series of emails or email exchanges  
7 between Charles Hallinan and Scott Tucker.

8 MR. VELAMoor: Your Honor, the government offers 2615.

9 MR. GINSBERG: Just one moment, your Honor.

10 No objection, your Honor.

11 THE COURT: Received.

12 (Government Exhibit 2615 received in evidence)

13 MR. VELAMoor: Could we show the jury and turn to the  
14 second page, which is the first email in the sequence, and  
15 highlight the first part of that.

16 Q. Mr. Smith, is this email from Mr. Hallinan to Mr. Tucker?

17 A. Yes.

18 Q. Dated June 4, 2008?

19 A. Yes.

20 Q. Again, that was before you became involved in the matter,  
21 correct?

22 A. Correct.

23 Q. Can you please read the first part?

24 A. "Thanks for your quick reply to my last email. I  
25 appreciate it. However, I'm confused by your reply. What do

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Smith - Direct

1 you mean when you say that NM Service Corp. owns/controls/has  
2 rights to all the assets in all the portfolios?"

3 Q. Can you then continue on --

4 MR. VELAMOOR: Could we zoom back out.

5 Q. -- and finish reading the rest of the email?

6 A. "Were the businesses reorganized without my knowledge and  
7 consent? Also, if you're the sole owner of those  
8 businesses/entities, what's their relationship to NM Service  
9 Corp.? Is there a relationship? I am totally confused and  
10 would appreciate some clarification from you. Charles  
11 Hallinan. President, Hallinan Capital Corp."

12 MR. VELAMOOR: Now let's turn to the first page,  
13 please.

14 THE WITNESS: All right.

15 MR. VELAMOOR: Just highlight first the from and to.

16 Q. Again, is this an email from Mr. Tucker to Mr. Hallinan?

17 A. Yes.

18 Q. Dated June 5, 2008?

19 A. Correct.

20 MR. VELAMOOR: Zoom back out. Let's start by  
21 highlighting just the first paragraph and then the list of  
22 entities.

23 Q. Mr. Smith, could you go ahead and read that?

24 A. "This traces back eight years...the 'Nevada nominee'  
25 companies...as we refer to them...are the" companies -- "the

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Smith - Direct

1 co's you received checks from for years..."

2 Q. Can you read out the names of the companies?

3 A. CB Service Corp., Universal Management, Silver State  
4 Business Administrators, Executive Global Management, Consumer  
5 Service.

6 Q. When you read co's, you said companies. Do you understand  
7 co's to be a reference to companies?

8 A. The email says C-O apostrophe S, which I read as companies,  
9 I thought that was an abbreviation of it.

10 Q. OK. Why don't we go ahead and continue to read the next  
11 part.

12 A. You want me to read that?

13 Q. Yes, please.

14 A. "These companies filed and paid minimal taxes for years  
15 (this was very aggressive but we grew fast and we grew when the  
16 opportunity to grow at a low cost was available in the  
17 market.)"

18 Q. Could you go a little bit slower?

19 A. Yes.

20 "They had 'nominee' managers/directors, etc....to keep our  
21 anonymity and names out of lawsuits and investigations...this  
22 structure worked well and accomplished what we needed...the  
23 actual 'technical ownership' structure was very loose, they  
24 were positioned as pass-throughs. (That's all they really  
25 did.) I set it up that way initially, not to expose our names

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Smith - Direct

1 to County Bank in an ownership/shareholder position  
2 but...especially to avert the lawsuits coming from Kansas,  
3 Colorado, Texas, some class actions and a few other states,  
4 when they were subpoenaing and suing the actual owners and  
5 shareholders, et al. Because of the loose setup we were never  
6 named and we never had any judgments or litigation...against us  
7 personally...this was always the goal...but all the time  
8 technically behind the scenes NM Service Corp...had...total  
9 control/ownership/interest...in them." Period.

10 Q. Turn to the next page, please, and can we go on just  
11 reading the visible portions of the text.

12 A. "All of the 'Nevada nominee' co's are dead...all activity  
13 was ceased in those accounts in 2006 and all activity is in the  
14 nations' d/b/a accounts since then.

15 "NM Service Corp....is just as it always has been, in good  
16 standing with an 'S' election for you and I...and with total  
17 control/ownership/interest/assignment of all of the assets in  
18 the portfolios...the portfolio assets are in the safest, most  
19 sound structure available while they continue to operate."

20 MR. VELAMoor: We can take that down.

21 Q. OK, Mr. Smith. So you started to say that you were  
22 retained in around 2009 as part of, to represent Mr. Tucker in  
23 connection with this lawsuit, correct?

24 A. That is correct.

25 Q. And so after these series of email exchanges, the dispute

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Smith - Direct

1 between them had resulted in some kind of litigation?

2 A. Apparently so.

3 Q. And how was that litigation ultimately resolved?

4 A. The lawsuit was dismissed and the case was settled.

5 Q. So was there -- ultimately, was it dismissed because there  
6 was a settlement?

7 A. Yes.

8 Q. I'm going to show you what's been marked as Government  
9 Exhibit 811. Have you had a chance to look at 811?

10 A. Yes, I have.

11 Q. What is 811?

12 A. It is the settlement agreement between Mr. Hallinan and  
13 Mr. Tucker, and attached to the settlement agreement are a  
14 number of documents that were referred to, were called for by  
15 the settlement agreement.

16 Q. And together, are they all essentially the documents that  
17 settled the dispute between Mr. Tucker and Mr. Hallinan?

18 A. Yes, that would be true.

19 MR. VELAMOOR: Your Honor, the government offers 811.

20 THE COURT: Any objection?

21 MR. GINSBERG: Yes, your Honor.

22 THE COURT: Basis.

23 MR. GINSBERG: Relevance and privilege.

24 THE COURT: All right. I'll allow it. Received.

25 (Government Exhibit 811 received in evidence)



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Smith - Direct

1 MR. VELAMOOR: Ms. Grant, may we show it to the jury,  
2 and start by, on the first page, focusing on the opening  
3 paragraph.

4 Q. OK, Mr. Smith, the parties listed there, are they the  
5 ultimate parties to the settlement agreement?

6 A. Yes.

7 MR. VELAMOOR: Ms. Grant, can we highlight the  
8 boldfaced names.

9 Q. OK. Can you please just read the names of the parties?

10 A. Charles Hallinan ("Hallinan"), Hallinan Capital Corp.  
11 ("HCC") --

12 Q. Mr. Smith, I think you can leave out the parentheses and  
13 just read the names.

14 A. All right.

15 THE COURT: I think the jury has this in front of  
16 them. They seem perfectly capable of reading the words on the  
17 page, particularly with the highlighting.

18 MR. VELAMOOR: Fair enough.

19 Q. What's the date of the settlement?

20 A. March 1, 2010.

21 Q. All right. We're not going to, obviously, go through all  
22 of this agreement, but let's go through a few parts.

23 MR. VELAMOOR: Can you turn to fifth page of this  
24 settlement agreement, please, and highlight the middle  
25 paragraph.

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Smith - Direct

1 Q. Can you briefly explain what the purpose is of this  
2 paragraph as part of this agreement?

3 A. Yes. There were a number of documents that the parties had  
4 produced with respect to the lawsuit, and the documents were  
5 confidential or trade secrets or part of the business between  
6 these two people. And this paragraph provided, generally, that  
7 after the litigation was over, Mr. Hallinan would put all of  
8 his documents in a depository, and when the terms of the  
9 settlement were completed, those documents would be -- I don't  
10 remember whether they would be either -- I think they'd be  
11 returned to Mr. Tucker.

12 Q. And was the idea to make sure these documents were not  
13 available for public access?

14 A. Yes, they were private documents.

15 Q. And did those documents that were covered by this paragraph  
16 include, for example, the emails we just looked at?

17 A. Yes, it would have.

18 Q. All right. You started to say that this lawsuit was  
19 settled, and before we go to a particular part, can you just  
20 describe the main terms of that settlement?

21 A. The main terms of the settlement were that Mr. Hallinan  
22 would cancel and release all of his claims against everyone  
23 that was named in the lawsuit; he would give up any rights to  
24 the business that was the subject matter of the lawsuit, and he  
25 would be paid the sum of \$30 million.

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Smith - Direct

1 Q. OK. So you said Mr. Hallinan would give up his rights to  
2 claims, right?

3 A. Yes. I think it was probably mutual release where  
4 everybody, all parties, released each other from claims, which  
5 means that they would no longer have any claims or demands or  
6 lawsuits against each other.

7 Q. OK. And Mr. Hallinan would give up his ownership share in  
8 the company NM Service?

9 A. Yes.

10 Q. And he would receive \$30 million?

11 A. Yes.

12 Q. Were there provisions in the agreement that provided for  
13 where that \$30 million would come from?

14 A. Those provisions were in the purchase agreement that was an  
15 exhibit attached to and probably referenced in the settlement  
16 agreement. It's in these documents that you handed me as part  
17 of the settlement package, but it wasn't in the 11 or 12 pages  
18 of the settlement agreement itself.

19 Q. OK. And that part of the agreement, determining where the  
20 money would come from, did you handle that part of the  
21 agreement or did somebody else?

22 A. Somebody else handled that.

23 Q. Who handled that part?

24 A. I think Tim probably handled that.

25 Q. When you say Tim --

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Smith - Direct

1 A. Tim Muir. You're talking about how the money would be paid  
2 and how it would structured?

3 Q. And also where it would come from.

4 A. Yes.

5 MR. VELAMOOR: Could we turn to 26.

6 Q. And it's on the screen in front of you, Mr. Smith. You  
7 don't have to go --

8 A. It's easier to see here. Can you give me the Bates number  
9 on the bottom?

10 Q. 103.

11 A. All right.

12 MR. VELAMOOR: Highlight the top.

13 Q. Is this the purchase agreement you mentioned?

14 A. Yes.

15 Q. And this provides that -- or where the \$30 million would  
16 come from?

17 A. Yes.

18 Q. Based on this agreement, where does the \$30 million come  
19 from?

20 A. The \$30 million came from AMG Services Inc.

21 Q. OK. Now, in connection with the settlement, did you have  
22 any dealings with any attorneys for AMG Services?

23 A. I don't think I did.

24 MR. VELAMOOR: Let's go back to the eighth page of the  
25 PDF.

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Smith - Direct

1 Q. OK. So there's a provision called notices. See that?

2 A. Yes.

3 Q. What, generally speaking, is the purpose of this provision?

4 A. It's a customary provision in the agreement so if there are  
5 any documents or notices that have to be sent to someone after  
6 the agreement is over, it specifies the persons to whom the  
7 notice would be sent and the address of those persons.

8 Q. And for Mr. Tucker, who is designated as the person to whom  
9 notices will be sent?

10 A. Notices to Mr. Tucker will be sent to Timothy J. Muir, the  
11 Muir Law Firm LLC.

12 MR. VELAMOOR: All right. Could we turn to the 12th  
13 page of the exhibit.

14 Q. And just briefly, was the agreement signed on behalf of  
15 Mr. Hallinan?

16 A. I didn't get any of the -- there wasn't a signing in my  
17 office. I didn't go to any signing. I didn't get any of the  
18 signatures from any of the parties. It has Mr. Hallinan's  
19 signature on this. I didn't see him sign, but I assume it is.

20 Q. OK. Who did get all the signatures on the document from  
21 the Tucker side?

22 A. Well, from the Tucker side, Tim Muir probably would have,  
23 but I don't think Tim would have gotten the one you're talking  
24 about here because that's Mr. Hallinan's. His lawyer would  
25 have gotten that.

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Smith - Direct

1 Q. From the Tucker side, who got the signatures?

2 A. From the Tucker side, I think Tim Muir did.

3 MR. VELAMOOR: OK. Turn to the next page.

4 Q. Do you see a signature on behalf of Scott Tucker?

5 A. I see a signature above the signature line labeled Scott  
6 Tucker, yes.

7 MR. VELAMOOR: Turn to the next page, and could we  
8 highlight the signature of the CLK management.

9 Q. Mr. Smith, can you make out who signed on behalf of CLK  
10 management?

11 A. No.

12 MR. VELAMOOR: All right. Turn to the next page,  
13 please. Can you highlight the signatures.

14 Q. Can you make out who signed on behalf of those five  
15 entities, Universal Management Services, CB Service Corp.,  
16 Executive Global Management, Consumer Service Corp., Silver  
17 State Business?

18 A. I cannot read the cursive signatures and tell you what name  
19 it is.

20 THE COURT: Cursive is what they call ordinary  
21 handwriting, which is disappearing from the face of the earth,  
22 unfortunately.

23 Go ahead.

24 MR. VELAMOOR: Now let's turn to page 42. And this  
25 will be the last part. Can you highlight the signature for AMG

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Smith - Direct

1 Services.

2 Q. Mr. Smith, can you make out any of the letters in that  
3 signature?

4 A. Yes.

5 Q. Which ones can you make out?

6 A. I can make out the letter J period, S period, and the  
7 second -- and the last name starts with an R, and after that I  
8 don't know what it is.

9 Q. OK. What's the title of that person?

10 A. Vice president.

11 MR. VELAMOOR: And very quickly, to page 45.

12 Q. Do you see any of the same letters on that signature for  
13 AMG Services?

14 A. I do see the same three letters, JSR, and I can't make out  
15 what's after that. Could be an A after that. I'm not sure.

16 Q. And the same title, vice president?

17 A. Yes.

18 Q. Just to be clear, under this agreement, it's your  
19 understanding AMG Services paid \$30 million, correct?

20 A. Yes, they were scheduled to pay it over a period of time.

21 Q. All right. I'm going to move on from this agreement now  
22 and turn your attention to 2010. Were you contacted in 2010 by  
23 Tim Muir?

24 A. Yes, I was.

25 Q. And was this about a new and different matter?

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Smith - Direct

1 A. It was.

2 Q. What did Mr. Muir call you about?

3 A. Tim called me to explain that there was another matter he  
4 would like for me to handle on behalf of Scott Tucker, that  
5 Scott Tucker had owned a company called CLK Services LLC, and  
6 several years earlier had sold it to AMG, the tribal entity,  
7 and the tribal entity -- it had been merged into the tribal  
8 entity and the tribal entity, AMG Services, had not filed a  
9 certificate of merger with the secretary of state's office in  
10 Kansas.

11 Q. Let me just stop you at that point. You mentioned  
12 something about a certificate of merger. What is a certificate  
13 of merger?

14 A. When a company is merged into another company, the company  
15 that disappears, the company that it's being merged into, files  
16 a certificate of merger in the secretary of state's office in  
17 the state where it's incorporated, in this case Kansas, that  
18 specifies that this company has been merged into another  
19 company.

20 Q. And so why in this case would such a document have been  
21 filed in Kansas?

22 A. Why would it have been filed in Kansas?

23 Q. Yes.

24 A. Because CLK Services LLC was a Kansas limited liability  
25 company.



H9qWtuc1

Smith - Direct

1 Q. OK. And is that a necessary part of the process of merging  
2 two companies?

3 A. That's the last step in the process, is filing a  
4 certificate of merger.

5 Q. OK. Now, by the way, when Mr. Muir contacted you, did he  
6 mention that he had represented or was representing AMG  
7 Services at any time?

8 A. No.

9 Q. All right. So you started to say that Mr. Muir called and  
10 said that the certificate of merger had not been filed, right?

11 A. Right, the certificate of merger had not been filed, and  
12 the matter was made worse by the fact that since no one had  
13 filed an annual report for CLK Services LLC with the secretary  
14 of state's office, which is required each year, the Kansas  
15 secretary of state had forfeited the charter of CLK and the  
16 charter was forfeited.

17 Q. OK. So you mentioned a couple of things there. A charter,  
18 what's a charter?

19 A. A charter is a document that the Kansas secretary of state  
20 issues. It's kind of like a birth certificate for a company, a  
21 document that says, This company is formed and now exists.

22 Q. And you mentioned that no one had filed an annual report.  
23 What's an annual report and what's the significance of that?

24 A. Every year a company in Kansas that is an entity is  
25 required to file an annual report with the secretary of state's

H9qWtuc1

Smith - Direct

1 office listing certain information about the company. It's a  
2 simple, one-page form that required to be filed. And if it's  
3 not filed, the state cancels the company and forfeits it.

4 Q. In this case, according to Mr. Muir, no one had filed an  
5 annual report for CLK, is that right?

6 A. Right.

7 Q. And you said as a result of that something was forfeited?

8 A. Yes, the existence of CLK was forfeited. But of course,  
9 CLK had already merged into AMG, so it created a mess.

10 Q. OK. Now, did Mr. Muir explain why this turn of events was  
11 a problem?

12 A. Yes. Anyone looking into CLK Services would think that it  
13 was an entity that had been owned by Scott Tucker and had still  
14 been owned by him at the time that the secretary of state  
15 forfeited the company, and therefore, Scott Tucker might have  
16 potential liability to be sued by he's a statutory trustee for  
17 the company.

18 Q. In other words, according to Mr. Muir, as a result of the  
19 failure to file the certificate of merger, Mr. Tucker faced  
20 additional liabilities?

21 A. He could, potential future liabilities.

22 Q. And who, according to Mr. Muir, should be facing those  
23 potential liabilities?

24 A. Well, the AMG Services.

25 Q. So what were the options at this point to remedy these

H9qWtuc1

Smith - Direct

1 problems as described by Mr. Muir?

2 A. Well, Mr. Muir, after explaining to me that AMG had not and  
3 would not file the certificate of merger with the state of  
4 Kansas, said that his research had led to a statute in Kansas  
5 that provided that if a company was required to file a  
6 certificate but refused to do so, that the district courts in  
7 Kansas could enter an order directing the secretary of state's  
8 office to accept the certificate for filing even without the  
9 signature.

10 Q. OK. So in other words, you could get a judge to order that  
11 the certificate be filed?

12 A. Correct.

13 Q. Was there any other option that could have been followed?

14 A. The only other option would have been to, for AMG, as the  
15 owner, to -- the tribal entity, to file the annual reports that  
16 had not been filed, get a clearance from the Kansas Department  
17 of Revenue and file an application to reinstate CLK Services  
18 LLC, and then after the reinstatement of LLC, of the LLC, AMG  
19 Services, the tribal entity, could have signed the certificate  
20 and filed it with the secretary of state's office.

21 Q. To simplify that, there's the lawsuit option, right?

22 A. Right.

23 Q. There's also the option to bring the charter back to life,  
24 in other words?

25 A. Correct.

H9qWtuc1

Smith - Direct

1 Q. And then file the certificate at that point?

2 A. By AMG, yes.

3 Q. And if that option had been followed, bringing the charter  
4 back to life and then filing the certificate, what would have  
5 been the effective date of the merger?

6 A. The date the certificate of merger was filed, whatever date  
7 that would have been.

8 Q. In this case it would have been around 2010, when you were  
9 discussing these matters?

10 A. Correct.

11 Q. Now, at the time did Mr. Muir mention anything about this  
12 case he wanted you to work on, helping with any ongoing state  
13 litigation involving the payday lending business?

14 A. No.

15 Q. Did Mr. Muir explain why he or anyone else had waited at  
16 least, as you put it, several years in order to address this  
17 issue?

18 A. There was no discussion of that.

19 Q. And so what option ultimately was chosen?

20 A. Well, I checked the statute that Tim referred to, and based  
21 on what he told me -- that Scott couldn't do it and the tribal  
22 entity would not do it -- the option was chosen to file a  
23 lawsuit in the district court of Kansas to ask the secretary of  
24 state to file it without the signature.

25 Q. OK. You mentioned about something about Scott couldn't do

H9qWtuc1

Smith - Direct

1 it.

2 A. Right.

3 Q. What do you mean by that?

4 A. In June of 2008, according to the documents that Tim  
5 provided, Scott had transferred CLK to AMG, which was the  
6 tribal entity, and after that, he didn't own it; he couldn't  
7 sign anything on its behalf to be filed with a government  
8 agency. And so he didn't have -- he didn't have the power to  
9 sign it on behalf of AMG.

10 Q. Is that what Mr. Muir told you?

11 A. Yes.

12 Q. Let me show you what's been marked as 2604. What is 2604?

13 A. It's the new client/matter form for the McDowell Rice law  
14 firm.

15 Q. And does it relate to this matter that Mr. Muir brought to  
16 you in 2010?

17 A. Yes, it is this matter.

18 MR. VELAMOOR: Your Honor, the government offers 2604.

19 MR. GINSBERG: No objection.

20 THE COURT: Received.

21 (Government Exhibit 2604 received in evidence)

22 MR. VELAMOOR: Ms. Grant, may we show 2604 to the  
23 jury.

24 Q. Mr. Smith, is this a standard form you prepared in the  
25 course of your work at this law firm?

H9qWtuc1

Smith - Direct

1 A. Yes.

2 Q. What's, generally speaking, the purpose of a form like  
3 this?

4 A. It's our firm's record about the nature of the matter, what  
5 type of matter it is, who the adverse parties are, who any  
6 related parties might be. And then on the second page it has a  
7 bunch of administrative-type information.

8 Q. Let's start with who is listed as the client name on there?

9 A. The client was Scott Tucker.

10 Q. And what's listed as the client address?

11 A. The address is to care of Timothy Muir, which is where our  
12 bills would be sent.

13 Q. OK. There's an email address for that client, correct?

14 A. Yes.

15 Q. What's the email address?

16 A. Tmuir@muirlawfirmllc.com.

17 Q. OK. Now, there's a section at the bottom, conflicts  
18 information. Why did you keep track of conflicts information,  
19 and what do you mean by that?

20 A. Well, lawyers have rules that tell us who, who we might  
21 have a conflict -- I mean, if I'm representing you and we want  
22 to sue Joe Doe, I couldn't do that if I represented Joe Doe; it  
23 would be a conflict. I want to make sure that my party that  
24 I'm representing, or that the adverse party is not a party that  
25 we represent, we represent or is our separate client, so --

H9qWtuc1

Smith - Direct

1 Q. OK.

2 THE COURT: I'm taking that testimony, ladies and  
3 gentlemen, for the witness's explanation of what he did and why  
4 he did it, but as I've told you and will tell you again, on  
5 issues of law, you take my instructions on the law and no one  
6 else's.

7 Go ahead. Next question.

8 MR. VELAMOOR: Thank you, your Honor.

9 Q. And who is listed, what's the first party that's listed  
10 here?

11 A. AMG Services Inc.

12 Q. How do you describe your relationship with AMG Services  
13 Inc. here?

14 A. There were two descriptions, one where they were the buyer.  
15 No. 2, it was listed as adverse.

16 Q. Why do you list them as adverse?

17 A. Well, because we were suing them, so they were adverse to  
18 us. They were on the other side.

19 Q. And us being Mr. Tucker, right?

20 A. Yes.

21 Q. OK. After you had the initial conversation with Mr. Muir,  
22 what happened after that?

23 A. Well, I called him back. He called me to tell me what the  
24 situation was and that there was a statute that he had  
25 identified that seemed to provide for filing with a court

H9qWtuc1

Smith - Direct

1 order. I looked at the statute -- then after that, I looked at  
2 the statute and I called him back and told him that I thought  
3 that he was correct, that the statute applied to this fact  
4 pattern and thought that we could obtain the remedy that was  
5 desired.

6 Q. OK. I'm going to show you what's been marked as 2605.

7 THE COURT: Put the last exhibit back up on the  
8 screen.

9 MR. VELAMoor: Sorry, your Honor.

10 THE COURT: That's all right.

11 MR. VELAMoor: Ms. Grant, do you want to do that.

12 THE COURT: Highlight box 8, if you will -- I'm sorry,  
13 box 2 it is, at the bottom. That's it. Thank you.

14 OK. Go ahead.

15 Q. All right. I've put in front of you 2605. What is 2605?

16 A. It's an email from Tim Muir, dated July 8, 2010, to my  
17 secretary whose name is Cait Shively, which attaches the  
18 petition that would be filed in the district court of Kansas to  
19 seek the relief we just talked about.

20 MR. VELAMoor: The government offers 2605.

21 MR. GINSBERG: No objection.

22 THE COURT: Received.

23 (Government Exhibit 2605 received in evidence)

24 MR. VELAMoor: Please highlight the top part and  
25 whatever substance is there.



H9qWtuc1

Smith - Direct

1 Q. Again, this is from Tim Muir, correct?

2 A. It is.

3 Q. And it attaches a document called "Tucker v. AMG petition  
4 for Pete," right?

5 A. Yes.

6 Q. Pete is you, right?

7 A. Pardon me?

8 Q. Pete is you?

9 A. Pete is me.

10 Q. Did you draft the petition?

11 A. No, I did not.

12 Q. Who did?

13 A. Tim Muir drafted it and sent it to my law firm, my  
14 secretary, July 8.

15 Q. And who was the source of the factual information and other  
16 assertions that were in the petition?

17 A. Tim drafted it. Tim would have been.

18 MR. VELAMOOR: Let's turn to the second page.

19 Q. Now, there's something called a caption at the top, right?

20 A. Yes.

21 Q. And that sort of sets forth who is suing who?

22 A. Correct.

23 Q. What's listed in this caption?

24 A. The caption is Scott Tucker, plaintiff, is suing AMG  
25 Services, Inc., the defendant.

H9qWtuc1

Smith - Direct

1 Q. OK. So Mr. Tucker is, in this petition, referred to as the  
2 plaintiff, correct?

3 A. That is correct.

4 Q. And AMG Services is referred to as the defendant?

5 A. Yes.

6 Q. And AMG is the one being sued?

7 A. Correct.

8 MR. VELAMoor: All right. So why don't we turn to the  
9 next page. And can you highlight paragraphs 9 through 12.

10 Q. Can you please read those paragraphs?

11 A. No. 9, "Subsequent to the closing of the purchase  
12 agreement, plaintiff had no ownership interest in or control of  
13 CLK and could not therefore execute any documents on behalf of  
14 CLK absent authorization from AMG.

15 "Subsequent to the closing of the purchase agreement" --

16 No. 10, "Subsequent to the closing of the purchase  
17 agreement, plaintiff did not have and has never had an  
18 ownership interest in AMG."

19 No. 11, "Subsequent to the closing of the purchase  
20 agreement, plaintiff had no right to access any of the books or  
21 record of CLK."

22 No. 12, "Upon information and belief, subsequent to the  
23 closing of the purchase agreement, all originals, copies and  
24 compilations of the books and records of the company were  
25 transferred to AMG and remain under AMG's control."

H9Q8TUC2

Smith - Direct

1 Q. So overall, what is the purpose of including these  
2 paragraphs in this petition?

3 A. These paragraphs advise the court that Scott Tucker was out  
4 of it, and he didn't have -- after the purchase agreement in  
5 2008, he didn't have the ability to file these documents on  
6 behalf of AMG.

7 Q. Does it also --

8 A. He didn't have the ability to file the certificate of  
9 merger on behalf of AMG.

10 Q. Does it also convey, particularly paragraph 12, that Mr.  
11 Tucker did not have any access to the books and records of AMG?

12 A. It says that they were transferred to AMG and remained  
13 under AMG's control.

14 Q. As opposed to Mr. Tucker's control?

15 A. Yes.

16 Q. Now, paragraph 2 mentioned a certain purchase agreement?  
17 Do you see that?

18 A. Yes.

19 Q. Does the petition say at any point when AMG paid any money  
20 to acquire CLK?

21 A. No. I think it says when the merger happened, but it  
22 didn't provide any details about when things were done, when  
23 money was paid, etc.

24 Q. OK. Turn to the next page.

25 MR. VELAMOOR: Can we highlight 15 to 18.

H9Q8TUC2

Smith - Direct

1 Q. You don't need to read them all.

2 15 says, "Plaintiff has no ability or authority to file  
3 CLK's annual report."

4 Do you see that?

5 A. Correct.

6 Q. Then there's some references to Kansas law, right?

7 A. Yes.

8 Q. Then 18, "Despite requests, AMG has failed or refused to  
9 file a certificate of merger with the Kansas secretary of  
10 state."

11 A. Yes, that's what it says.

12 Q. What is, generally speaking, the significance of those  
13 paragraphs?

14 A. Well, that was the significant part of the lawsuit. The  
15 statute that Tim found said that if the surviving company fails  
16 to and refuses to file the certificate of merger, then we can  
17 ask the court to do it without the signature. So here we were  
18 telling the court that in this case the statute applies because  
19 AMG has failed and refused to file the certificate of merger  
20 with Kansas.

21 Q. Why don't we turn to the next page.

22 MR. VELAMOOR: Can we just highlight paragraph 22 and  
23 23, please.

24 Q. Can you read 22?

25 A. 22 says, "Plaintiff therefore unjustly faces potential

H9Q8TUC2

Smith - Direct

1 liabilities due to AMG's failure to file a certificate of  
2 merger and annual reports with the secretary of state."

3 Q. Again, are those the liabilities you mentioned before that,  
4 according to Mr. Muir, Scott Tucker had potentially?

5 A. Yes.

6 Q. The next paragraph, "Plaintiff, however, has no authority  
7 to execute and record annual reports or a certificate of merger  
8 because plaintiff has no ownership interest in AMG."

9 A. Correct.

10 MR. VELAMOOR: Let's turn to the next page.

11 Now, can you highlight what is called the "wherefore"  
12 clause.

13 Q. So can you read beginning with "plaintiff" and ending with  
14 the date?

15 A. "Plaintiff prays for an order" -- where do you want me to  
16 read?

17 Q. "Plaintiff prays for an order."

18 A. You said end at what point?

19 Q. At the end of the date, June 24, 2008.

20 A. OK. "Plaintiff prays for an order directing AMG to execute  
21 a certificate of merger, or, in the event AMG fails to answer  
22 this petition or otherwise fails to comply with the orders of  
23 this court, then plaintiff prays for an order directing the  
24 Kansas secretary of state to record an appropriate certificate  
25 reflecting the merger of CLK into AMG effective June 24, 2008."

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Smith - Direct

1 Q. So is this where essentially you asked the court to do  
2 something?

3 A. Yes.

4 Q. What are the different things that this petition is asking  
5 the court to do?

6 A. We are asking the court to either order AMG to execute the  
7 certificate of merger, if they answer the lawsuit, or, if AMG  
8 does not answer the lawsuit, then we are asking the court to  
9 direct the secretary of state to file the certificate of merger  
10 effective June 24, 2008 without AMG signing it.

11 Q. If someone doesn't answer a lawsuit, is there a term for  
12 that?

13 A. Default. If they don't answer, they are in default and  
14 subject to having a default judgment entered against them.

15 Q. In this particular case, the request is that the merger be  
16 effective June 24, 2008?

17 A. Correct.

18 Q. Who provided that date?

19 A. Tim. This was in the original petition sent over by Tim.

20 Q. Now, is there a process by which, when you're suing  
21 someone, you let them know that you're suing them?

22 A. Yes, you have to -- you have to notify them of the lawsuit  
23 if they have been sued.

24 Q. How do you do that?

25 A. After the lawsuit is filed, the clerk's office issues a

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Smith - Direct

1 document called summons, and that summons form says you have  
2 been sued and you have got, in this case, 20 days to file an  
3 answer in the district court. And attached to that summons is  
4 a copy of this lawsuit. That summons will then be served on  
5 AMG, the defendant, by either the sheriff or a private process  
6 server.

7 Q. In this case, how was this lawsuit served?

8 A. We never have the sheriff serve them because it takes too  
9 long so we always use private process servers. A private  
10 process server is someone who is appointed by the district  
11 court in Kansas with the power to serve process. You can't  
12 just have anybody serve it. So a private process server was  
13 utilized in this case.

14 Q. Who handled that process?

15 A. My secretary had the summons issued for service by private  
16 process server and got what is called a service packet, which  
17 is the summons and the -- probably an order appointing the  
18 process server and the petition, and she got that together from  
19 the district court and sent it out to Tim Muir for him to  
20 provide to the process server.

21 Q. So for him to ensure that it was served?

22 A. Yes. For him to provide to the process server. The  
23 private process server the court had appointed would serve the  
24 document.

25 THE COURT: Ladies and gentlemen, let me instruct you

H9Q8TUC2

Smith - Direct

1 on what a default is.

2 So in the systems as they exist in the many states of  
3 this country, a lawsuit is begun by the service of process on  
4 the party who you're suing. That process gives the party the  
5 knowledge that there is a proceeding that has been commenced  
6 upon them and sets a time for the party to respond to that  
7 lawsuit. If they do not respond in the time designated by law  
8 and do nothing to seek an extension of that time period, then  
9 it is the same as if they had admitted the allegations of the  
10 lawsuit.

11 So the party who commenced the lawsuit wins the  
12 lawsuit by default, because the party sued had notice and had  
13 the opportunity to be heard, but chose not to exercise that  
14 right to be heard. And, therefore, it's fair and just that a  
15 default judgment be entered against the party who has not  
16 responded.

17 Go ahead.

18 MR. VELAMoor: Thank you, your Honor.

19 BY MR. VELAMoor:

20 Q. I am showing you what has been marked as Government  
21 Exhibits 2608 and 2610.

22 Have you had a chance to look at those?

23 A. Yes, I have.

24 Q. What is 2608?

25 A. 2608 is the original file stamped copy of the lawsuit that



H9Q8TUC2

Smith - Direct

1 I signed and filed in this matter. It is the filed copy of  
2 what was in draft in 2605.

3 Q. What is 2610?

4 A. 2610, the first page is a certificate of merger with  
5 respect to the CLK merger and AMG Services. And the second,  
6 third and fourth pages is a copy of the order signed by the  
7 judge directing the recordation of the certificate of merger  
8 that was on the first page. In other words, this was the  
9 document by which the court ordered the secretary of state to  
10 file the certificate of merger.

11 MR. VELAMOOR: The government offers Government  
12 Exhibit 2608 and 2610.

13 MR. GINSBERG: No objection.

14 THE COURT: Received.

15 (Government's Exhibits 2608 and 2610 received in  
16 evidence)

17 Q. Let's start with 2608 first.

18 Is 2608 essentially the filed version of the draft that you  
19 received from Mr. Muir?

20 A. Yes.

21 Q. Is it substantially the same as the draft received from  
22 Mr. Muir?

23 A. Yes.

24 Q. So this is what you filed in court, right?

25 A. Yes, on July 8, 2010.

H9Q8TUC2

Smith - Direct

1 Q. Let's move to 2610.

2 You said this was the certificate of merger, right?

3 A. Yes.

4 Q. This is essentially the goal of the lawsuit?

5 A. Yes.

6 Q. As well as the order that begins on the next page, right?

7 A. Correct.

8 Q. Who drafted these documents?

9 A. These were sent to me by The Muir Law Firm. It was either  
10 Tim Muir or one of the lawyers working in his office drafted  
11 it.

12 Q. Why don't we start with 2610 and just focus on the fourth  
13 line there.

14 A. All right.

15 Q. Before I do that, what ultimately happened with this  
16 lawsuit?

17 A. Pardon me?

18 Q. What ultimately happened with this lawsuit?

19 A. Well, it was -- the lawsuit was terminated when -- the  
20 court probably closed its file sometime after the order was  
21 entered.

22 Q. Who ultimately won the lawsuit?

23 A. Oh, we did, by default. Scott Tucker got the relief that  
24 he had asked for in the petition.

25 Q. You said Scott Tucker won by default?

H9Q8TUC2

Smith - Direct

1 A. Yes.

2 Q. And as a result of winning, the court ordered a certificate  
3 of merger effective what date?

4 A. June 24, 2008.

5 MR. VELAMOOR: Why don't we turn to the third page and  
6 highlight the second paragraph.

7 Q. It says, "That AMG's failure to answer or otherwise respond  
8 to this petition despite having been served."

9 Do you see that?

10 A. Yes.

11 Q. Is this explaining that AMG Services lost because they  
12 didn't respond?

13 A. Yes. It's explaining to the court -- yes.

14 Q. So just to be clear, after the court granted the relief,  
15 what was done with the certificate?

16 A. After the court entered the order and executed the  
17 certificate, I took it to the clerk's office, filed it, got a  
18 certified copy, three certified copies. Then I had one of my  
19 employees, a runner named Mark Schneblen --

20 THE COURT: A runner?

21 THE WITNESS: A runner.

22 THE COURT: Go ahead.

23 A. A courier named Mark Schneblen take the papers to Topeka,  
24 Kansas, about 65 miles away, and file them with the secretary  
25 of state's office there.

H9Q8TUC2

Smith - Direct

1 Q. So this began, obviously, with Mr. Muir's concerns about  
2 Mr. Tucker facing potential liabilities, right?

3 A. Yes.

4 Q. So you were successful in this action, right?

5 A. Correct.

6 Q. So then who as a result of this faced those potential  
7 liabilities?

8 THE COURT: I didn't hear the question.

9 Q. So who as a result of this action now faced those potential  
10 liabilities?

11 A. AMG faced the liabilities.

12 Q. I am going to show you what has been marked 2611.

13 Mr. Smith, do you recognize 2611?

14 A. I do.

15 Q. What is it?

16 A. They are the July 31, 2010 and the August 31, 2010 billings  
17 from my law firm to Scott Tucker for handling this matter, the  
18 charge for our time and our expenses.

19 MR. VELAMOOR: The government offers 2611.

20 THE COURT: Any objection?

21 MR. BATH: No.

22 THE COURT: Received.

23 (Government's Exhibit 2611 received in evidence)

24 MR. VELAMOOR: Can we show this to the jury, Ms.  
25 Grant.

H9Q8TUC2

Smith - Direct

1 Q. Let's focus briefly on the middle portion there with the  
2 dates.

3 Is this essentially your bill?

4 A. It is.

5 Q. Do you customarily, as you did in this case, describe some  
6 of the things you did that you're charging for?

7 A. Yes. The individual entries are recorded by me on the  
8 dates that are indicated there, and then at the end of the  
9 month, they take all of our entries up through a cutoff date  
10 and put them on a bill.

11 Q. There's references here to phone conferences with Tim. Who  
12 was the Tim who you had the phone conferences with?

13 A. Tim Muir. Those are the first two calls I mentioned to  
14 you.

15 Q. Why don't we go to the last page.

16 Approximately how much did your firm charge to handle this  
17 matter?

18 A. We charged about, somewhere around -- I can do the math  
19 here, but about \$2900. And there was \$278.66 involved in  
20 filing fees and service fees. So the total bill with all that  
21 is about \$3,100.

22 Q. Was that paid in two different installments?

23 A. Yes. The July 31 bill was paid timely. Therefore, on the  
24 August 31 bill, you can see the previous statement balance and  
25 the fact that it was paid.

H9Q8TUC2

Smith - Cross

1 Q. Let's quickly focus on less total disbursements. It says  
2 \$859.52. Do you see that?

3 A. Yes.

4 Q. Was that the first payment that was made?

5 A. Yes.

6 Q. The amount remaining that was due was the second amount,  
7 which is \$2325.89?

8 A. Yes.

9 Q. Was that also ultimately paid?

10 A. Yes.

11 MR. VELAMOOR: No further questions, your Honor.

12 THE COURT: Ladies and gentlemen, let's take our  
13 mid-morning recess.

14 Please do not discuss the case among yourselves or  
15 with anyone. We will be back in action in ten minutes. Thank  
16 you.

17 (Jury exits courtroom)

18 (Recess)

19 (Jury present)

20 THE COURT: Mr. Bath, you may inquire.

21 CROSS-EXAMINATION

22 BY MR. BATH:

23 Q. Mr. Smith, I want to ask you a little bit about the  
24 Hallinan lawsuit. OK?

25 A. OK.

H9Q8TUC2

Smith - Cross

1 Q. You recall, I think you testified, that it was settled  
2 March of 2010. Does that sound right?

3 A. Yes. It was settled around late winter, early spring of  
4 2010.

5 Q. You recall it took about 18 months to get that settlement?

6 A. Approximately.

7 Q. More than a year?

8 A. Correct.

9 Q. So perhaps the suit started sometime in '08?

10 A. It was filed on my birthday 2008, October 30.

11 Q. You were contacted initially by Ernie Fleischer, who is a  
12 lawyer in Kansas City?

13 A. Yes.

14 Q. He is not affiliated with Tim?

15 A. He's not.

16 Q. He is in what we might call a big firm?

17 A. He is with Blackwell Sanders, a very big firm.

18 Q. And he came to you because you had been practicing for a  
19 long time, correct?

20 A. A long time.

21 Q. And done a lot of heavy lifting in business litigation,  
22 correct?

23 A. Correct.

24 Q. A lot of complex matters you handled?

25 A. I've handled some substantial matters for Mr. Fleischer's

H9Q8TUC2

Smith - Cross

1 savings and loan.

2 Q. Many years ago?

3 A. Yes.

4 Q. So Ernie asked you to get involved, and you get involved on  
5 behalf of Scott Tucker in the Hallinan suit, correct?

6 A. Yes.

7 Q. And it's filed in Nevada?

8 A. Yes. State court in Nevada.

9 Q. Lots of companies and people were sued, correct?

10 A. Correct.

11 Q. We saw some of the parties or all the parties listed on  
12 that Government Exhibit 811, when the government highlighted  
13 the parties, is that correct?

14 A. On the settlement agreement, yes.

15 Q. One of the parties that was sued was CLK, correct?

16 A. That is correct.

17 Q. And CLK was represented by Conly Schulte?

18 A. That is correct. And Mr. Rose.

19 Q. Chris Rose?

20 A. Chris Rose.

21 Q. Out of Nevada?

22 A. Correct.

23 Q. They represented CLK because AMG had purchased CLK?

24 A. Correct.

25 Q. And that's how you first got to meet Conly Schulte?



H9Q8TUC2

Smith - Cross

1 A. That is true.

2 Q. I assume there were a number of hearings and meetings  
3 involved in that litigation?

4 A. In Nevada, yes, there were.

5 Q. Even some in Philadelphia?

6 A. Yes.

7 Q. And you made those trips?

8 A. I made those trips.

9 Q. And Conly Schulte was there on behalf of CLK?

10 A. Conly Schulte was in Nevada. I don't think Conly Schulte  
11 was involved in the meetings we had in Philadelphia.

12 Q. Eventually the matter gets settled, but during that 14, 15,  
13 16 months, whatever it takes, you did a lot of work on that  
14 case?

15 A. Yes.

16 Q. And Tim was involved as well?

17 A. Tim Muir was involved as well.

18 Q. You were lead counsel?

19 A. I was lead counsel for Scott Tucker.

20 Q. And Tim assisted you?

21 A. Yes.

22 Q. And you got to know Tim?

23 A. I got to know Tim.

24 Q. And worked with him?

25 A. I did.

H9Q8TUC2

Smith - Cross

1 Q. Got to know his reputation for being a lawyer?

2 A. Yes.

3 Q. Saw the kind of work he did?

4 A. Yes.

5 Q. Feel like you had a pretty good handle on who Tim was and  
6 what kind of lawyer he was at the end of that litigation?

7 A. I did.

8 Q. So now we move into 2010 and you get contacted by Tim about  
9 this lawsuit against AMG, correct?

10 A. Yes.

11 Q. And would it be fair to call this a friendly suit?

12 THE COURT: At what point in time?

13 Q. When Tim first contacts you and talks about the lawsuit,  
14 would it be fair to say it's not a friendly suit?

15 A. I'm not sure what -- I think a friendly suit is something a  
16 parent files on behalf of a child.

17 Q. I will move on.

18 He explains, Tim explains to you, we have got a situation  
19 here, CLK is still in existence in the state of Kansas,  
20 correct?

21 A. CLK had been forfeited by Kansas, but the certificate of  
22 merger had not been filed at that time.

23 Q. You talked about the state having sort of a birth  
24 certificate for a corporation. The merger would sort of be the  
25 death certificate?

H9Q8TUC2

Smith - Cross

1 A. Yes.

2 Q. And you explained that AMG --

3 THE COURT: At that point in time, the certificate of  
4 incorporation of CLK had been forfeited, is that correct?

5 THE WITNESS: That is correct.

6 THE COURT: So did it continue as a corporation at  
7 that point?

8 THE WITNESS: No.

9 THE COURT: Next question.

10 Q. The merger had not been filed?

11 A. The certificate of merger had not been filed.

12 Q. That's right. And Tim explained to you that AMG -- he had  
13 talked to counsel for AMG, and they said they wouldn't file the  
14 certificate of merger. Is that what he told you?

15 MR. VELAMOOR: Objection, your Honor. Hearsay.

16 THE COURT: No. For the fact that it was said, if it  
17 was said. It's a question.

18 Do you understand the question?

19 THE WITNESS: Yes, I understand the question.

20 A. I don't remember the exact conversation a number of years  
21 ago, but he did tell me that AMG refused to file it.

22 Q. He wanted you to represent Scott in a lawsuit?

23 A. Correct.

24 MR. BATH: Can we have Government Exhibit 2604. It's  
25 been admitted.

H9Q8TUC2

Smith - Cross

1 Q. The middle of that page is described as "long matter name."

2 Is that correct, Mr. Smith?

3 A. Would you highlight it?

4 Q. Yes. There is a description there, it begins "our client."

5 Do you see that description?

6 A. Oh, yes. You're talking about the five sentences down

7 there under "long matter name"?

8 Q. Yes, sir.

9 A. Yes. I can see that.

10 Q. The box is called "long matter name." And I assume you put  
11 that information below that, correct?

12 A. Either I or my secretary, Cait Shively.

13 Q. She did based on what you told her?

14 A. Yes.

15 Q. Does that accurately describe the matter?

16 A. Yes, it does.

17 Q. If you need to refer to your time records or something like  
18 that to refresh your memory, just let us know.

19 A. OK.

20 Q. Tim explains to you the situation, and he says he has  
21 located the statute, explains the situation, and you then begin  
22 to look into it on your own, correct?

23 A. After the telephone call, first telephone call, I looked up  
24 the statute myself, yes.

25 Q. You thought, based on your experience, that the statute fit

H9Q8TUC2

Smith - Cross

1 what was being described to you?

2 A. I did.

3 Q. At some point in time after that first call, Tim sent over  
4 a draft petition that we have seen, correct?

5 A. The very next day, yes.

6 Q. There may have been some minor changes, but essentially  
7 that's the petition that you file on behalf of Scott Tucker?

8 A. That is correct.

9 Q. You filed the petition and essentially then send out the  
10 summons, correct?

11 A. Correct.

12 Q. You wait for the other party to respond or to fail to  
13 respond?

14 A. That's correct.

15 Q. And the other party did respond, correct?

16 A. Not to the lawsuit. The lawyer for the tribal entity sent  
17 me a letter, but they did not respond to the lawsuit.

18 Q. I'm sorry. After the lawsuit was filed, Conly Schulte sent  
19 you a letter?

20 A. Yes, he did.

21 Q. On behalf of AMG?

22 A. On behalf of AMG, yes.

23 Q. The other side that you were suing?

24 A. Correct.

25 MR. BATH: Can we show the witness Government Exhibit

H9Q8TUC2

Smith - Cross

1 2612, please.

2 Q. Don't read that letter out loud, Mr. Smith.

3 Is that the letter you received from Conly Schulte?

4 A. It is.

5 Q. Do you keep that in your records there at the law firm?

6 A. Yes. That's my handwriting where it's circled "Scott  
7 Tucker." It says "file," believe or not, with a line across  
8 it.

9 Q. And when you produced the documents, this is one of the  
10 documents that was in your records, correct?

11 A. It was in my file in this case, yes.

12 MR. BATH: I offer 2612.

13 THE COURT: Any objection?

14 MR. VELAMOOR: Yes, your Honor. Hearsay.

15 THE COURT: Is this offered for the truth of its  
16 content, Mr. Bath?

17 MR. BATH: It's offered for why Mr. Smith took the  
18 action he did subsequent to this letter, not offered for the  
19 truth of the matter.

20 THE COURT: It's received to the extent it explains  
21 the actions of the witness.

22 (Government's Exhibit 2612 received in evidence)

23 MR. BATH: If we can publish it.

24 If you can just blow up the first paragraph.

25 THE COURT: In other words, you read the letter,

H9Q8TUC2

Smith - Cross

1 ladies and gentlemen. You don't assume that the statements of  
2 the person who wrote the letter are true, but you understand  
3 that the author of the letter said these things because it then  
4 may explain what the witness did next.

5 MR. BATH: Can you get the date first? Let's start  
6 with the date.

7 Q. The date of the letter is July 26, 2010, correct?

8 A. Yes.

9 MR. BATH: The next paragraph, please.

10 If we can go to the next paragraph.

11 Thank you.

12 And last, the signature.

13 Q. Of course, you explained you met Mr. Schulte through his  
14 representation of AMG in the Hallinan suit?

15 A. Yes, I did.

16 MR. BATH: You can take that down. Thank you.

17 Q. So that letter has a date of July 26, 2010.

18 If we look at your time records, does it indicate that you  
19 reviewed that letter sometime before going to court?

20 A. I have two time entries for July 28, one going to court and  
21 one reading the letter. The reading the letter time entry  
22 comes after the going to court, but that doesn't mean that that  
23 happened first. There were two time entries for July 28, one  
24 of which was to receive and review the letter from Conly  
25 Schulte.

H9Q8TUC2

Smith - Cross

1 Q. That communicated to you that AMG was not going to respond  
2 to the lawsuit?

3 A. Yes.

4 Q. So with that information then you went to court to meet  
5 with the judge -- have a hearing at some point in time?

6 A. Yes. I don't remember whether I read the letter before or  
7 after I went over to court, but they were in default anyway and  
8 I was not anticipating that they would be answering. This  
9 letter came as no surprise.

10 THE COURT: This letter came as no surprise, is that  
11 what you said?

12 THE WITNESS: Yes.

13 Q. At some point in time you had a court hearing?

14 A. July 28.

15 Q. And did you go in front of a state court judge?

16 A. Yes.

17 Q. And explained the situation to him or her?

18 A. Yes.

19 Q. And the judge entered the order?

20 A. Yes.

21 Q. Do you remember, was Mr. Muir present with you or not?

22 A. You know, I think Tim, knowing that I was going to go over  
23 that day, went over with me. I couldn't be a hundred percent  
24 certain, but I am fairly sure that Tim went to court with me  
25 that day.



H9Q8TUC2

Smith - Cross

1 Q. I assume it was a short hearing?

2 A. Yes.

3 Q. You explained to the judge what was taking place, correct?

4 A. Yes.

5 Q. The judge entered the order and subsequently you recorded  
6 that with the Kansas secretary of state, correct?

7 A. Correct.

8 Q. I just have a couple of other things, Mr. Smith.

9 MR. BATH: Can we put up Government's Exhibit 2611.  
10 It's been admitted.

11 Q. Mr. Smith, we are looking at your bill, correct?

12 A. It is.

13 Q. And you were explaining to the government, it's made up of  
14 two things, one is how much time is spent and also expenses, is  
15 that right?

16 A. That is correct.

17 Q. Like on 7/7 of '10 --

18 MR. BATH: Can you blow that up in the lower third,  
19 under expenses.

20 Q. So, for instance, this district court filing fee, when you  
21 file a lawsuit you have to pay a fee?

22 A. Yes.

23 Q. And your firm paid that fee on behalf of Mr. Tucker?

24 A. We did.

25 Q. And then there is mileage from the courier?

H9Q8TUC2

Smith - Redirect

1 A. Yes.

2 Q. It's not unusual for a firm to advance costs that are  
3 related to legal representation, is it?

4 A. It is not unusual at all.

5 Q. And then you put that on your bill and you get that back  
6 from the client?

7 A. Right.

8 Q. Thank you, Mr. Smith.

9 MR. VELAMOOD: Judge, I am informed that Mr. Tucker  
10 has no questions so may I proceed with redirect?

11 THE COURT: You may.

12 REDIRECT EXAMINATION

13 BY MR. VELAMOOD:

14 Q. Mr. Bath mentioned that you explained the situation to the  
15 judge. Do you recall that?

16 A. I recall that I went over to court and had a hearing before  
17 the judge, where the judge had the file, and I would have told  
18 him what the case was about. I don't remember the  
19 conversations that occurred July 28th of 2010, but I would have  
20 done that, yes.

21 Q. As part of your explanation, did you explain to the judge  
22 that Mr. Muir, who had brought this lawsuit to you, was at the  
23 same time holding himself out as general counsel of AMG?

24 A. He was what?

25 Q. He was holding himself out as general counsel for AMG?

H9Q8TUC2

Smith - Redirect

1 A. No.

2 Q. Did you explain that to the judge?

3 A. No.

4 Q. Did Mr. Muir explain that to you?

5 A. No.

6 Q. If you had known that Mr. Muir was holding himself out as  
7 general counsel of AMG, would you still have gone ahead and  
8 filed this lawsuit?

9 A. I would have talked to my law firm's general counsel, Tom  
10 Buchanan, to ask him what he thought about it.

11 Q. Is that someone you consult with when you're presented with  
12 ethical dilemmas or problems?

13 A. Yes.

14 Q. If you had known that in fact Mr. Tucker was paying  
15 Mr. Schulte's bills, would you have looked at that letter,  
16 Government Exhibit 2612, any differently?

17 A. If I knew that Mr. Tucker was paying Mr. Conly's bills?

18 Q. Yes.

19 A. I don't know. I would have to know more circumstances  
20 about what matter it would be relating to.

21 Q. Would you have wanted to know something more about that  
22 before deciding what actions to take after receiving that  
23 letter?

24 A. I would have.

25 THE COURT: I think the question that was asked was if

H9Q8TUC2

1 you knew, with regard to the letter, that the bill for  
2 preparing the letter was paid by the individual.

3 THE WITNESS: I would have looked into it more.

4 A. Tell me what the question is again. I am confused.

5 Q. I think the judge clarified it. Let's move on.

6 If you knew or believed that Mr. Tucker remained in control  
7 of AMG and CLK, including its books and records, would you have  
8 filed this lawsuit, Mr. Smith?

9 A. Not if he had authority to use those records to file with  
10 the secretary of state's office.

11 MR. VELAMOOR: No further questions.

12 THE COURT: Thank you very much, sir. You may step  
13 down.

14 THE WITNESS: Am I excused for the balance of the  
15 trial?

16 THE COURT: You are unless there is any objection to  
17 that.

18 You're excused.

19 (Witness excused)

20 MR. VELAMOOR: Prior to calling the next witness,  
21 there are a few e-mails we would like to offer.

22 THE COURT: Yes.

23 MR. VELAMOOR: So, your Honor, at this time, the  
24 government offers Exhibits 2607, 2618, 2620, 2619, and 2623.

25 THE COURT: Any objection?

H9Q8TUC2

1 MR. BATH: Not to 2607.

2 THE COURT: That's received.

3 (Government's Exhibit 2607 received in evidence)

4 MR. BATH: Not to 2618.

5 THE COURT: Received.

6 (Government's Exhibit 2618 received in evidence)

7 MR. BATH: Not to 2620.

8 THE COURT: Received.

9 (Government's Exhibit 2620 received in evidence)

10 MR. BATH: Not to 2619.

11 THE COURT: Received.

12 (Government's Exhibit 2619 received in evidence)

13 MR. BATH: Not to 2623.

14 THE COURT: Received.

15 (Government's Exhibit 2623 received in evidence)

16 MR. VELAMOOR: Could we show 2607 to the jury first.

17 Just focus on the top e-mail, please.

18 The "from."

19 And the substance.

20 Let's turn to 2618, please.

21 Start with the bottom e-mail.

22 From.

23 To.

24 Subject.

25 And the substance.

H9Q8TUC2

1 Move up to the next e-mail and go in sequence.  
2 Just the substance.  
3 Move on up to the next one.  
4 From.  
5 And highlight the substance.  
6 Quickly, let's go through the next e-mails. They are  
7 short.  
8 The next one up.  
9 The next one up.  
10 Let's go on to 2620.  
11 Go to the next page, please.  
12 We will start with Scott Tucker's e-mail at the  
13 bottom.  
14 So we start with the next e-mail at the beginning.  
15 Just go back to the previous page, at the bottom.  
16 From.  
17 Just highlight the substance.  
18 Move on to the next page, finish out that e-mail.  
19 THE COURT: Who is the "to" and "from" on this?  
20 MR. VELAMOOR: Let's go back to the previous page and  
21 start on the bottom.  
22 Just highlight "from" and "to."  
23 THE COURT: This is part of that e-mail?  
24 MR. VELAMOOR: Yes.  
25 Let's move on up to the next.

H9Q8TUC2

1 The next e-mails are again quick.  
2 Can you highlight the substance?  
3 Move up.  
4 And to the last one.  
5 2619, please. Start with the bottom e-mail.  
6 The "from" and the "to."  
7 Then the substance.  
8 Move up to the next e-mail.  
9 Then up to the subsequent e-mail.  
10 Can you highlight who it's from.  
11 Who it is to.  
12 And then highlight the two lines of substance.  
13 On up to the next.  
14 Go to the top e-mail, please.  
15 Just highlight the substance, please.  
16 Lastly, your Honor, 2623.  
17 Can you put it up next to the last page of 2611, which  
18 is in evidence.  
19 Can you just highlight the 859.52 number on 2611.  
20 Now, can you expand the check on the left, please.  
21 Maybe just the left side of the check, it's easier to read.  
22 The top left, the source of the check.  
23 And to.  
24 The amount.  
25 And the signature.

H9Q8TUC2

1 Can you go to the next check, please.

2 Who is that check from?

3 Who is that check to.

4 And the amount.

5 And the signature, please.

6 Can you come out of that check for a second.

7 On 2611, can you highlight the balance at the balance,  
8 \$2325.89.

9 Now, go to the next check on the left and just  
10 highlight the check.

11 From, the source of the check.

12 Pay to.

13 The amount.

14 And the last page of the exhibit, please.

15 The source of that check.

16 The destination.

17 The amount.

18 MR. RAVI: At this time, your Honor, the government  
19 calls Scott Mitchell.

20 SCOTT WILLIAM MITCHELL,

21 called as a witness by the government,

22 having been duly sworn, testified as follows:

23 THE COURT: State your full name for the record and  
24 spell it.

25 THE WITNESS: Scott William Mitchell, S-C-O-T-T,



H9Q8TUC2

W-I-L-L-I-A-M, M-I-T-C-H-E-L-L.

(Continued on next page)

H9qWtuc3

Mitchell - Direct

1 THE COURT: You may inquire.

2 DIRECT EXAMINATION

3 BY MR. RAVI:

4 Q. Mr. Mitchell, how old are you?

5 A. 50 years old.

6 Q. Where do you currently live?

7 A. Latham, Kansas.

8 Q. How far did you go in school?

9 A. I just finished my associate's degree last May and am  
10 continuing on.

11 Q. And you previously graduated from high school?

12 A. Yes, I did.

13 Q. What is your associate's degree in?

14 A. Computer networking.

15 Q. Are you currently employed?

16 A. Yes, I am.

17 Q. What do you do?

18 A. I'm a chief technology officer.

19 Q. How long have you been doing that?

20 A. A little over three years.

21 Q. Describe briefly your work history prior to 2003.

22 A. Worked in computers up in Iowa and then moved to Kansas.

23 Q. At some point did you begin working at CLK Management?

24 A. Yes, I did.

25 Q. When was that?

H9qWtuc3

Mitchell - Direct

1 A. 2003.

2 Q. Where was CLK located at that time?

3 A. In Overland Park, Kansas.

4 Q. What was your position?

5 A. I was the IT manager.

6 Q. What experience had you had that prepared you for that job?

7 A. I had been doing computer work for most of my adult life at  
8 that point in time.

9 Q. Did you have any reservations about taking this job?

10 A. Initially, yes, I did.

11 Q. What were those reservations?

12 A. A little bit of the stigma between payday loans and call  
13 centers.

14 THE COURT: Sustained. Stricken.

15 Go ahead. Next question.

16 Q. Did you try to find out information about the company?

17 A. Yes, I did.

18 Q. What did you try to do?

19 A. Tried to do some Internet searches, Google searches on some  
20 of the names of the companies.

21 Q. Were you able to find much information about CLK  
22 Management?

23 A. No. Very little information was available.

24 Q. Did you end up taking the job?

25 A. Yes, I did.

H9qWtuc3

Mitchell - Direct

1 Q. What was your title at CLK?

2 A. Didn't really have titles within CLK Management.

3 Q. Describe your general job responsibilities.

4 A. I was the general day-to-day IT manager for the IT staff.

5 Q. What generally did you do for the company?

6 A. We did everything from simple little "my mouse doesn't  
7 work," "my keyboard doesn't work" to adding users and removing  
8 users as they was hired and terminated in the computer systems.

9 Q. You also worked with predictive dialers?

10 A. Correct.

11 Q. What are those?

12 A. Predictive dialers are the machines that allow you to load  
13 mass quantities of phone numbers into them and try to come up  
14 with an algorithm to be able to call consumers in the most  
15 efficient way.

16 Q. Were those used for call centers at CLK Management?

17 A. Yes, they were.

18 Q. Particularly what departments used those predictive  
19 dialers?

20 A. The collections companies.

21 THE COURT: The what?

22 THE WITNESS: Collections companies.

23 THE COURT: Thank you.

24 Q. What were the names of those collections companies?

25 A. Final collection and recovery were the internal names.

H9qWtuc3

Mitchell - Direct

1 Q. Did they have other names or external names?

2 A. Yes, Pinion Management.

3 Q. What kind of business was CLK Management involved with?

4 A. They were payday loan companies.

5 Q. Did it have any doing-business names?

6 A. Yes, 500 FastCash, Ameriloan, United Fast Cash.

7 Q. Describe how the loan companies were organized in the  
8 building when you started.

9 A. When I first started the loan companies were up on the  
10 third floor of the building, and the collections companies were  
11 downstairs on the first floor of the building.

12 Q. Did it eventually expand?

13 A. Yes, over time it expanded and took over the entire  
14 building.

15 Q. And how long were you working at that building at CLK  
16 Management?

17 A. About ten years.

18 Q. Are you familiar with National Money Services?

19 A. Yes, I am.

20 Q. What's that?

21 A. National Money Service, when I started, was the name of the  
22 computer domains that everybody logged into.

23 Q. And what's the relationship between CLK and National Money  
24 Service?

25 A. I was hired to work with the company CLK and my paycheck

H9qWtuc3

Mitchell - Direct

1 came from CLK, but all the computer systems at that time were  
2 under NM Services, or National Money Services.

3 Q. Who was your direct supervisor when you started?

4 A. Ed Cross.

5 Q. And who was Ed Cross' boss?

6 A. Blaine Tucker.

7 Q. Who was Blaine Tucker's boss?

8 A. Scott Tucker.

9 Q. What was Blaine Tucker's title?

10 A. Again, the company didn't really have titles. Internally,  
11 we called him the COO, or chief operating officer.

12 Q. What was Scott Tucker's title?

13 A. CEO.

14 Q. Was that a title that he had?

15 A. No, it was not a title that was given. It was just an  
16 internal title.

17 Q. Do you recognize Scott Tucker in the courtroom today?

18 A. Yes, I do.

19 Q. Can you please point him out by an article of clothing?

20 A. Yes, he's in the back row back there, third from the  
21 right -- sorry, third from the left.

22 THE COURT: Stand up, please, and tell me, which table  
23 are you talking about?

24 THE WITNESS: The far back table.

25 THE COURT: The second table, yes.

H9qWtuc3

Mitchell - Direct

1 THE WITNESS: Sorry. Fourth from the right.

2 THE COURT: Fourth from the right?

3 THE WITNESS: Yes.

4 THE COURT: An article of clothing the person is  
5 wearing?

6 THE WITNESS: Red tie.

7 THE COURT: All right. Identification noted. Thank  
8 you.

9 BY MR. RAVI:

10 Q. Describe the rest of the management at CLK.

11 A. We had Crystal Grote. She ran several of the payday loan  
12 companies. Tim Buckley ran a few of the payday loan companies.  
13 Chris Becker ran one of the collections companies, and Glenn  
14 Fisher ran another one of the collections companies. Natalie  
15 Dempsey was kind of an overall person, like an office manager.

16 Q. Was there also corporate counsel?

17 A. Yes. Corporate counsel was Timothy Muir.

18 Q. Did he have a specific title?

19 A. Corporate counsel.

20 Q. Was that an official title or again another internal title?

21 A. Internal title.

22 Q. So who was ultimately in charge of CLK at the time you  
23 started?

24 A. Scott Tucker.

25 Q. When did you first meet Mr. Tucker?

H9qWtuc3

Mitchell - Direct

1 A. It was a couple weeks after I started the company.

2 Q. Did you meet him or see him before that?

3 A. Yeah, before I actually started for the company, I was  
4 coming back from a vacation. I stopped up in my hometown, Des  
5 Moines, Iowa, and went to a race in a town not too far away  
6 called Newton, Iowa, at the Iowa Speedway, and there was a race  
7 going on. The race was actually -- had a driver in there named  
8 Scott Tucker with a horseshoe that said 500 FastCash on the  
9 side of it, and I told my dad at that point in time, I think  
10 that's one of the gentlemen I'm going to be going to work for.

11 Q. Are you familiar with Mr. Tucker's racing?

12 A. Yes, I am.

13 Q. Is there a company that's associated with that?

14 A. Levelfive Motorsports.

15 Q. I'd like to show you on your screen Government Exhibit  
16 1212. Do you recognize that?

17 A. Yes, that's the Levelfive Motorsports logo.

18 MR. RAVI: The government offers 1212.

19 MR. GINSBERG: No objection.

20 THE COURT: Received.

21 (Government Exhibit 1212 received in evidence)

22 MR. RAVI: Please publish that for the jury.

23 Q. Now, how often did you interact with Mr. Tucker during the  
24 first few years you worked at CLK?

25 A. A couple times a week.



H9qWtuc3

Mitchell - Direct

1 Q. I'd like to show you now Government Exhibit 4009, which is  
2 in evidence. And what is this?

3 A. That is the office that CLK Management was located in that  
4 I worked in.

5 Q. Where was Scott Tucker's office?

6 A. On the left side of the screen, in the back of the  
7 building. So you're looking at the front of the building, he  
8 was in the back of the building.

9 Q. Describe Mr. Tucker's office.

10 A. It was a corner office on the third floor, very large, very  
11 nice office.

12 Q. What did -- did it contain anything in it?

13 A. It had an engine from a Ferrari, a hood from a race car and  
14 a door from a race car.

15 MR. RAVI: You can take that down.

16 Q. During your time at CLK and at those offices in Government  
17 Exhibit 4009, how did the number of employees expand at that  
18 building?

19 A. When I started, the number was somewhere around 500  
20 employees, and at the height of it, it was around 1,500  
21 employees.

22 Q. At some point were you promoted?

23 A. Yes, I was.

24 Q. When was that?

25 A. A couple years after I started, Ed Cross had some medical

H9qWtuc3

Mitchell - Direct

1 issues and so he left the company, and I took over his  
2 position.

3 Q. And then who was your direct supervisor?

4 A. Blaine Tucker at that point in time.

5 Q. Are you familiar with ecash?

6 A. Yes, I am.

7 Q. What is that?

8 A. Ecash was the payday loan software that was on the servers  
9 out in Las Vegas.

10 Q. Who was responsible -- were you responsible for ecash?

11 A. No, my department was not responsible for that. There was  
12 a third-party company called the Selling Source.

13 Q. Do you know who was in charge of the Selling Source?

14 A. The gentleman I know as Derek LaFavor.

15 Q. How was ecash accessed at that time from the Overland Park  
16 offices of CLK?

17 A. Across the Internet on a virtual private network.

18 Q. Mr. Mitchell, while you were working at CLK, did you come  
19 to learn about a company named AMG?

20 A. Yes.

21 Q. How did you come to learn about AMG?

22 A. Mr. Muir came down to my office and told me that the  
23 company was switching over to a new company name, AMG Services,  
24 and we needed to change all the computer equipment over to that  
25 company as soon as possible.

H9qWtuc3

Mitchell - Direct

1 Q. When approximately did you hear this from Mr. Muir?

2 A. 2005, 2006.

3 Q. And do you recognize Mr. Muir in the courtroom today?

4 A. Yes, I do.

5 Q. Can you please point him out the same way you did for  
6 Mr. Tucker?

7 A. Yes, he's in the back row, back table, with kind of a gold,  
8 yellowish tie.

9 THE COURT: Where is he seated?

10 THE WITNESS: Far left corner.

11 THE COURT: Identification noted. Thank you.

12 BY MR. RAVI:

13 Q. And who oversaw the transition from CLK to AMG?

14 A. Mr. Muir.

15 Q. When I talk about the transition, it's the IT transition,  
16 correct?

17 A. Yes.

18 Q. How long did that transition take place?

19 A. Several months.

20 Q. When was the first time that you heard about Native  
21 American tribes getting involved in the business?

22 A. After Mr. Muir gave me direction to move over to AMG  
23 Services.

24 Q. And who did you hear about, who did you hear from that  
25 Native American tribes were getting involved in the business?

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Mitchell - Direct

1 A. Originally Mr. Muir.

2 Q. Were there any changes, from your perspective, to the  
3 operations of the payday loan business as a result of the  
4 change from CLK to AMG?

5 A. No, sir.

6 Q. Was there any change in management as a result of the  
7 transition from CLK to AMG?

8 A. No, there was not.

9 Q. Was there any change to Scott Tucker's role as CEO and head  
10 of the company?

11 A. No, there was not.

12 Q. Did you believe that a Native American tribe had taken over  
13 the company?

14 A. No.

15 MR. GINSBERG: Objection, your Honor.

16 THE COURT: Overruled.

17 A. No.

18 Q. Why not?

19 A. There was no physical change. The -- my day-to-day job  
20 responsibilities in acquiring equipment and functionality had  
21 remained the same.

22 Q. Did you attend management meetings for the company?

23 A. Yes, I did.

24 Q. And who generally attended these management meetings?

25 A. Crystal Grote, Natalie Dempsey, Blaine Tucker, myself,

H9qWtuc3

Mitchell - Direct

1 Chris Becker and Glenn Fisher.

2 Q. Did anyone from a Native American tribe ever attend these  
3 meetings?

4 A. No.

5 Q. So after CLK became AMG, who did you believe was the head  
6 of AMG?

7 A. Scott Tucker.

8 Q. Was there another person that was listed as the CEO of AMG?

9 A. Yes.

10 Q. Who was that?

11 A. Don Brady.

12 Q. And where was he listed as the CEO of AMG?

13 A. There was a placard on the door to his office.

14 Q. Did Mr. Brady always have an office in Overland Park,  
15 Kansas?

16 A. No, he did not.

17 Q. When do you first recall understanding that he had an  
18 office?

19 A. It was several months after the transition from CLK to AMG.

20 Q. And where was Mr. Brady's office located?

21 A. It was one office north of Blaine Tucker's office on the  
22 third floor.

23 Q. Can you compare Mr. Tucker's office to Mr. Brady's office?

24 A. Mr. Tucker had a very nice, very large office. Mr. Brady  
25 had what I would consider a very standard size, much smaller

H9qWtuc3

Mitchell - Direct

1 office.

2 Q. And where was the title of CEO listed?

3 A. On a placard on, next to the door.

4 Q. Did Mr. Tucker have any title listed outside of his office?

5 A. No, he did not.

6 Q. Did Blaine Tucker?

7 A. No, he did not.

8 Q. What was Mr. Brady's office used as before he assumed that  
9 office?

10 A. Mostly just a general office where other people could come  
11 in and sit down and use an office as they were traveling into  
12 the Overland Park area.

13 Q. To be clear, did anyone else have titles outside of their  
14 offices?

15 A. Not at that time, no.

16 Q. Just Mr. Brady?

17 A. Correct.

18 Q. When did you first meet -- did you at some point, did you  
19 meet Mr. Brady?

20 A. Yes, I did.

21 Q. Where did you meet him?

22 A. I met him at a few different sporting events that we had  
23 gone to and some of Scott Tucker's races.

24 Q. Did you discuss the payday loan business with him?

25 A. No, we did not.

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Mitchell - Direct

1 Q. What did you discuss with him?

2 A. General stuff, day to day, racing, and the fact that at one  
3 point in time he asked me if I would be interested in hiring  
4 his stepson to come work for me in the information technology  
5 department.

6 Q. Mr. Mitchell, you may want to put that microphone a little  
7 bit closer to you.

8 How often did you interact with Mr. Brady in AMG's offices?

9 A. Never did.

10 Q. And how often did you pass by his office?

11 A. Several times a day.

12 Q. For approximately how many years?

13 A. About seven years after it became AMG Services.

14 Q. So during those approximately seven years or so, you never  
15 saw Mr. Brady in his office?

16 A. No.

17 Q. Did you think Mr. Brady was the real CEO of AMG?

18 A. No, I did not.

19 Q. Who did you believe was the real CEO?

20 A. Scott Tucker.

21 Q. I'd like to now show you Government Exhibit 1603. Is this  
22 an email that you received?

23 A. Yes, it is.

24 MR. RAVI: The government offers Government Exhibit  
25 1603.

H9qWtuc3

Mitchell - Direct

1 THE WITNESS: Pardon?

2 MR. ROTH: No objection.

3 THE COURT: Received.

4 (Government Exhibit 1603 received in evidence)

5 MR. RAVI: Can we zoom in on the bottom of this

6 email --

7 THE WITNESS: Uh-huh.

8 MR. RAVI: -- ms. Grant, and can we focus in on the

9 "to," "from" first.

10 Q. Who is this email from, Mr. Mitchell?

11 A. It is from Tim Muir.

12 Q. Who is it to?

13 A. Myself and John McManus.

14 Q. Who is copied?

15 A. Natalie Dempsey, Blaine Tucker and Scott Tucker.

16 MR. RAVI: And if we could just highlight the issue in  
17 the first line, and the next sentence as well.

18 Q. What did you understand Mr. Muir to be describing to you  
19 with respect to this sentence that's highlighted?

20 A. When he types the name Mike into the address bar of an  
21 email, it popped up Mike Lane, and then afterwards there's some  
22 computer information about the address and the address book.

23 Q. And did some of that information contain CLK?

24 A. Correct, it says CLK Management.

25 Q. What's the date of this?



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Mitchell - Direct

1 A. The date on that is February 18, 2011.

2 Q. Is that about three years or so after the transition from  
3 CLK to AMG?

4 A. Yes, it is.

5 Q. Could I just have you read the next two sentences?

6 A. OK. "What the hell is this?? 'Mike Lane,'" in quotes, "in  
7 the system is bad bad bad...(1) he was a TSS person and (2) he  
8 ended up leaving TSS and stole data."

9 Q. Could you read the next sentence as well?

10 A. "And 'CLK,'" in quotes, "still around is bad bad."

11 MR. RAVI: Could we zoom out of this.

12 THE WITNESS: Pardon?

13 MR. RAVI: I'm speaking with Ms. Grant in terms of  
14 zooming out on the screen.

15 Q. Did you end up addressing this issue?

16 A. Yes, I did.

17 Q. And what did you do?

18 A. I looked in his mailbox, but -- and saw personal contact  
19 that he had in his computer system from Mike Lane, and then I  
20 asked him if he wanted me to go ahead and delete it.

21 Q. And what did you understand Mr. Muir to be referring to  
22 when he said "CLK still around is bad bad"?

23 A. After the merger we weren't supposed to talk about CLK  
24 anymore; everything was supposed to be referred to as AMG  
25 Services.

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Mitchell - Direct

1 MR. RAVI: You can take that down.

2 Q. Mr. Mitchell, were you involved at some point in providing  
3 an iPad to Mr. Brady?

4 A. Yes, I was.

5 Q. And when was this, approximately?

6 A. Approximately 2009, 2010.

7 Q. And who did you speak with about setting up this iPad?

8 A. Mr. Muir.

9 Q. And what did Mr. Muir tell you about the purpose of this  
10 iPad?

11 A. Needed to be able to have Mr. Brady have the illusion he  
12 was clearing, or approving, the payday loans.

13 Q. So did you set up this iPad?

14 A. Yes, I did.

15 Q. And how did you set it up?

16 A. Generic with his email on there.

17 Q. How else did you set up the iPad?

18 A. The standard iPad setup. It had a web browser on there  
19 called Safari and a couple of other standard options on it.

20 Q. And you said before that Mr. Muir told you that you need to  
21 set up the iPad so it would have the illusion that Mr. Brady  
22 was approving loans or doing something with loans, correct?

23 A. Correct.

24 Q. So what did you set up on the iPad related to the loans?

25 A. We put a website, what's called a URL, into the browser

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Mitchell - Direct

1 under a favorite.

2 Q. All right.

3 A. So when you pulled up Safari and clicked on your favorites,  
4 that website would be available so you didn't have to type it  
5 in.

6 Q. And if Mr. Brady clicked on that website, what would appear  
7 on that iPad screen?

8 A. It was a screen with lots of names and lots of different  
9 information on it.

10 Q. What were the names listed?

11 A. The names were supposed to be the people who were applying  
12 for those loans.

13 Q. Was there other information?

14 A. The information was so small, it was really hard to read on  
15 that page.

16 Q. And then was there a button or something else relating to  
17 this?

18 A. There was an "approve" button at the bottom of the page  
19 that internally we just called the magic button, that if you  
20 pushed, it would make it look like the loans are being approved  
21 at that point in time.

22 Q. Could Mr. Brady access any loan applications as a result  
23 when he viewed this web page?

24 A. No, not on that page.

25 Q. What if Mr. Brady wanted to deny the loan?

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Mitchell - Direct

1 A. I don't believe that was possible.

2 Q. What did you do with the iPad once you configured it?

3 A. I gave it to Mr. Muir.

4 Q. Were you involved in giving the iPad to Mr. Brady?

5 A. No, I was not.

6 Q. Are you aware of any -- other than what you did with  
7 Mr. Brady, are you aware of any tribal involvement with loans?

8 A. No, I am not.

9 Q. Are you aware of whether the loans were automatically  
10 approved?

11 A. They appeared to be automatically approved, yes.

12 Q. And I'm talking about generally, through the payday loan  
13 business. Correct?

14 A. Uh-huh, correct.

15 THE COURT: OK. You answered verbally.

16 Q. How, how often did you interact with Mr. Muir when you were  
17 at the company?

18 A. Several times a week.

19 Q. You mentioned his position was corporate counsel, correct?

20 A. Correct.

21 Q. His internal position?

22 A. Correct.

23 Q. Describe why you primarily interacted with Mr. Muir.

24 A. Any time that we had a document that we were setting up for  
25 a new company, we were trying to get like a net-30 account with

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Mitchell - Direct

1 to be able to purchase through, we would send that contract to  
2 Mr. Muir for him to be able to look over the language on it to  
3 approve it. He would red line that language and then send me  
4 back the document for me to send off to the third party to be  
5 able to have them have their counsel look at it.

6 THE COURT: Did you refer to net 30?

7 THE WITNESS: Correct.

8 THE COURT: What is net 30?

9 THE WITNESS: Net 30 is when you go to a business and  
10 you're trying to purchase some equipment and you're not paying  
11 cash for it, you're getting net terms for 30 days, and then you  
12 pay the company back.

13 BY MR. RAVI:

14 Q. And so were you generally dealing with Mr. Muir with  
15 respect to these types of contracts?

16 A. Correct.

17 Q. Vendor contracts?

18 A. Uh-huh.

19 THE COURT: You have to answer in words.

20 A. Correct, yes.

21 Q. Did Mr. Muir ever instruct you not to use his name in  
22 connection with the review of these contracts?

23 A. Correct. He actually told me specifically to extract the  
24 document from the email and put it into a new document instead  
25 of sending it over to the third party.

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Mitchell - Direct

1 Q. Once Mr. Muir had reviewed and signed off on a vendor  
2 contract, what was the next step in getting the contract  
3 signed?

4 A. I would take it up to Natalie Dempsey and ask who would be  
5 signing that document.

6 Q. And who signed the vendor contracts?

7 A. Sometimes myself, sometimes Blaine Tucker, sometimes  
8 Natalie, and then there was a new person, Joseph Ragman, that  
9 was signing those contracts.

10 Q. Who is Joseph Ragman?

11 A. He had a title on the paper of VP.

12 Q. Have you ever met Mr. Ragman.

13 A. No, I have not.

14 Q. And do you know why Mr. Ragman was signing contracts?

15 A. I do not.

16 Q. Do you believe that Mr. Ragman was a real person?

17 A. In the beginning, yes, I did.

18 Q. Did that --

19 A. But --

20 Q. Did that change at some point?

21 A. Yes. After time I noticed that I was sending documents up  
22 to get signed by an individual and just in a matter of moments  
23 that document would be approved, and not being able to lay eyes  
24 on this person, I couldn't figure out why he was able to sign  
25 that so quickly.

H9qWtuc3

Mitchell - Direct

1 Q. Who would you have heard give instructions that this  
2 Mr. Ragman sign documents?

3 A. I got that a couple times from Mr. Muir.

4 Q. Did you get it from anyone else?

5 A. Natalie Dempsey.

6 Q. I'd like to show you now on the screen Government  
7 Exhibit --

8 THE COURT: Ladies and gentlemen, sorry to hold you in  
9 suspense like that, but it's time for lunch. Seems to be some  
10 pretty good weather going on. I'll see you back for a 2:00  
11 start. Remember, do not discuss the case among yourselves or  
12 with anyone. We'll be back in action at 2:00.

13 (Continued on next page)  
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H9qWtuc3

Mitchell - Direct

1 (Jury not present)

2 THE COURT: When the jury leaves, you may step down.

3 (Witness not present)

4 THE COURT: I received a note, which has been marked  
5 as Court Exhibit No. 9:

6 "Your Honor, I wanted to remind you of my inability to  
7 serve as a juror from the afternoon of Wednesday, October 5,  
8 eve of Sukkoth, through October 7, as well as the afternoon of  
9 Wednesday, October 11 through Friday, October 13, in observance  
10 of the Jewish holiday of Sukkoth. I hope the Court understands  
11 my need and apologize for any inconvenience. Thank you. Juror  
12 No. 5."

13 I'd like to hear from counsel as to what they think I  
14 should do. I obviously know what I can do, but I want to hear  
15 from counsel what they think I should do. We're adjourned.

16 MR. VELAMOOR: Judge, very briefly on a housekeeping  
17 matter, sorry to interrupt. There is a witness who may testify  
18 this afternoon who is going to be testifying pursuant to an  
19 immunity order. Just to avoid wasting the jury's time, I  
20 wonder if we could bring the witness up maybe five minutes  
21 before two to handle the invocation, if that's convenient for  
22 the Court.

23 THE COURT: Yes. That's fine. We'll resume at five  
24 minutes to two and get that done. Thank you.

25 (Luncheon recess)



H9qWtuc3

Porting - Direct

## AFTERNOON SESSION

1:55 p.m.

THE COURT: Please be seated.

You may proceed.

MR. VELAMoor: Thank you, your Honor. The government calls Mary Porting, and she's here with counsel, Margaret Shalley.

THE COURT: Excellent. Come on up, ma'am.

MARY L. PORTING,

called as a witness by the Government,

having been duly sworn, testified as follows:

## DIRECT EXAMINATION

BY MR. VELAMoor:

Q. Good afternoon, Ms. Porting.

Did there come a time when you worked for a company called National Money Service?

A. I assert my, I assert my Fifth Amendment right not to incriminate myself.

Q. In the course of that work, were you involved in the compliance department of that company?

A. I assert my Fifth Amendment right not to incriminate myself.

Q. Ms. Porting, as you said, you've asserted your Fifth Amendment right against self-incrimination with respect to the two questions I've posed to you, correct?

H9qWtuc3

Porting - Direct

1 A. Correct.

2 Q. Do I understand that you intend to similarly invoke those  
3 rights with respect to any other questions I ask you?

4 A. Yes.

5 Q. Have you had a chance -- I'm going to show you a copy of an  
6 order. Have you a chance to review that order in advance of  
7 taking the stand?

8 A. Yes.

9 Q. And did you review it along with Ms. Shalley, who is your  
10 counsel in the courtroom today?

11 A. Yes.

12 Q. And do you understand what this order requires you to do?

13 A. Yes.

14 Q. Do you understand that the order requires you to give  
15 testimony and provide information in this case notwithstanding  
16 the fact that you've invoked your Fifth Amendment rights?

17 A. Yes.

18 Q. And do you understand that because you're being compelled  
19 to provide testimony, you're being immunized for that  
20 testimony?

21 A. Yes.

22 Q. Do you understand that, as a result, any testimony you give  
23 in this case cannot be used against you?

24 A. Yes.

25 Q. That, in other words, you cannot be prosecuted on the basis

H9qWtuc3

Porting - Direct

1 of any testimony you provide in this trial?

2 A. Yes.

3 Q. Do you understand that even though you are being given that  
4 immunity for your testimony, you are required nonetheless to  
5 tell the truth because of the oath you took a moment ago?

6 A. Yes.

7 Q. And do you understand that even though you're being  
8 immunized, if you don't tell the truth, you could be prosecuted  
9 for perjury, making a false statement or obstruction of  
10 justice?

11 A. Yes.

12 Q. Do you intend to abide by the terms of the order?

13 A. Yes, I do.

14 Q. Thank you.

15 THE COURT: All right.

16 MR. VELAMOOR: Your Honor, I'm going to provide your  
17 deputy with the application as well as the proposed order.

18 THE COURT: All right. I find that the application is  
19 in good order and I've granted the application. I have signed  
20 the order, and I deem both the order and the application to be  
21 filed in open court.

22 MR. VELAMOOR: Thank you, your Honor. May the witness  
23 be excused, obviously subject to further recall?

24 THE COURT: Yes. Thank you very much.

25 (Witness excused)

H9qWtuc3

Porting - Direct

1 THE COURT: Are our jurors ready yet?  
2 THE DEPUTY CLERK: Yes.  
3 THE COURT: OK. Bring our jury in, please.  
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H9qWtuc3

Mitchell - Direct

1 THE COURT: Please be seated.

2 Pretty nice outside, I hope.

3 JUROR: Very nice.

4 THE COURT: Yes, we're lucky to have this weather.

5 Go ahead, Mr. Ravi. You may continue.

6 MR. RAVI: Thank you, your Honor.

7 DIRECT EXAMINATION CONTINUED

8 Q. Mr. Mitchell, before the break, we had talked about an iPad  
9 that you had configured for Mr. Brady that you gave to  
10 Mr. Muir, correct?

11 A. Correct.

12 Q. Did you see that iPad at a later point in time?

13 A. Yes, I did.

14 Q. Where did you see it?

15 A. We were at a Kansas City Chiefs football game at Arrowhead  
16 Stadium, Kansas City.

17 Q. What were the circumstances under which you saw this iPad?

18 A. Mr. Brady had pulled the iPad out and loaded the web page  
19 up and pressed the button at the bottom of the page.

20 Q. This is the magic button?

21 A. Correct.

22 Q. How long did it take for him to do that?

23 A. A matter of seconds.

24 Q. Were you on tribal lands when he pushed that button?

25 A. No, sir.

H9qWtuc3

Mitchell - Direct

1 Q. Now, right before the break, we talked about Mr. Ragman,  
2 correct?

3 A. Correct.

4 Q. That was a name that was used to sign documents?

5 A. Correct.

6 MR. RAVI: I'd like to show Government Exhibit 1601 on  
7 the screen.

8 Q. Is this an email you received?

9 A. Yes, it is.

10 MR. RAVI: The government offers Government Exhibit  
11 1601.

12 THE COURT: Any objection?

13 MR. BATH: No, sir.

14 THE COURT: Received.

15 (Government Exhibit 1601 received in evidence)

16 MR. RAVI: Please publish it, and if we could zoom in  
17 on the body of the email.

18 Q. Who is this email to, Mr. Mitchell?

19 A. It was to me -- sorry. Originally it was to Mr. Muir.

20 Q. From who?

21 A. From myself.

22 Q. And what's the date on the email?

23 A. November 9, 2010.

24 Q. And what did you write?

25 A. "Me, Blaine or Mr. Ragman?"

H9qWtuc3

Mitchell - Direct

1 Q. Why did you send this email to Mr. Muir?

2 A. It was about a contract to be signed.

3 MR. RAVI: Could we go to the next email.

4 Q. And did Mr. Muir respond to your email?

5 A. Yes, he did.

6 Q. What did he respond?

7 A. "You is fine."

8 MR. RAVI: We could go to the top email.

9 Q. Did you forward this email to Mr. Blaine Tucker?

10 A. Yes, I did.

11 MR. RAVI: I'd like to now show Government Exhibits  
12 4025, 4027 and 4028, and I'd like to offer those as well.

13 THE COURT: Any objection?

14 MR. GINSBERG: I don't have one, your Honor.

15 THE COURT: Received.

16 (Government Exhibits 4025 and 4027-4028 received in  
17 evidence)

18 MR. RAVI: Please publish 4028 first.

19 Q. Who is this email from?

20 A. The original email is from Karen Kelley.

21 Q. Who is that?

22 A. She worked for Chris Becker, down in the collections  
23 company on the first floor.

24 Q. Who is the email to?

25 A. The email is to Natalie Dempsey.

H9qWtuc3

Mitchell - Direct

1 Q. What was her position again?

2 A. I just called her the IT -- pardon me, sorry, the office  
3 manager.

4 Q. Just read the body of the email.

5 A. "This is a rough draft of the new chargeback letters to  
6 payment plans set up after the last week in April. If you have  
7 any suggestions or revisions, please let me know. Thanks for  
8 your help. Karen Kelley."

9 Q. Is there an attachment?

10 A. Global letter 5-email.doc is the attachment.

11 MR. RAVI: Let's turn to that attachment, and can you  
12 just focus on the signature, the "thank you" and below.

13 Q. What name is listed under thank you?

14 A. Karen Kelley, chargeback processor.

15 MR. RAVI: If we could now go to Government Exhibit  
16 4025.

17 Q. Is this an email that's subsequently in the same chain?

18 A. Correct.

19 Q. And who is this email from?

20 A. That email is from Natalie Dempsey.

21 Q. Can you just read the body of that email?

22 A. "Karen, I've made a few changes. I've removed the SSN that  
23 was listed on the letter. We should not disclose that  
24 information to a third party. I've also edited the second  
25 paragraph a little. I would like to avoid using the rep's



H9qWtuc3

Mitchell - Direct

1 names in these letters. You'll also notice that I changed the  
2 signature line. Please let me know if you have any questions."

3 Q. Thank you. Is there also an attachment to this email?

4 A. Yes, global letter 5-email.doc.

5 MR. RAVI: Could we go to the attachment and focus on  
6 "thank you" and below.

7 Q. What's the name listed under thank you?

8 A. J.S. Ragman, chargeback processor.

9 MR. RAVI: If we could now turn to Government Exhibit  
10 4027.

11 Q. And is this a subsequent email in the same chain?

12 A. Yes, it is.

13 Q. And who is this email from?

14 A. This email is from Chris Becker.

15 Q. Who is it to?

16 A. It is to Natalie Dempsey.

17 Q. And what's Chris Becker's position?

18 A. Chris Becker was one of the gentlemen that ran the  
19 collection agency downstairs.

20 Q. And what does Chris Becker write?

21 A. "That Joe Shit gets around."

22 Q. Do you know what the Joe Shit is a reference to?

23 A. Joe Ragman, the name.

24 Q. Do you know what J.S. Ragman, or Joe Shit the Ragman, is a  
25 reference to?

H9qWtuc3

Mitchell - Direct

1 A. Yes.

2 Q. What is it a reference to?

3 A. It's a -- I looked it up on dictionary.com. It's a  
4 reference to Joe Shit the Ragman. The definition was a normal  
5 soldier.

6 MR. RAVI: We can take that down.

7 If we could now go to Government Exhibit 1602, I'd  
8 like to offer this in evidence.

9 Ms. Grant, if you could zoom in.

10 MR. GINSBERG: I have no objection, your Honor.

11 THE COURT: Received.

12 (Government Exhibit 1602 received in evidence)

13 BY MR. RAVI:

14 Q. Mr. Mitchell, who is in the "from" line?

15 A. Glenn Fisher.

16 MR. RAVI: We can publish that to the jury. Thank  
17 you.

18 Q. Who is it to and who is copied?

19 A. To Jared Marsh, cc Blaine Tucker, myself, Bob Little.

20 Q. Can you focus in and read the first line of the body, where  
21 it begins "copies of agreement," and just read that?

22 A. "Copies of the agreement and addendums attached. AMG  
23 agreement signed by Joseph Ragman, vice president," smiley  
24 face.

25 MR. RAVI: Turn to the attachments.

H9qWtuc3

Mitchell - Direct

1 Q. What's attached to this email?

2 A. Addendums for a contract.

3 MR. RAVI: If we could turn to page 2 of the  
4 attachment and zoom in on the signature line.

5 Q. What does it say under "agreed and accepted for AMG  
6 Services Inc."?

7 A. J.S. Ragman, VP, 1-7-09.

8 MR. RAVI: Turn to page 4 of the PDF.

9 Q. What is this document?

10 A. That is a composite agreement, the original agreement from  
11 Noble Systems to AMG systems for the predictive dialer.

12 Q. Is this a large contract?

13 A. Yes, it is.

14 Q. Do you know in terms of value how big a contract this is?

15 A. Several hundred thousand dollars.

16 MR. RAVI: If we could turn to page 21 of this  
17 contract, or page 21 of the exhibit. Just could focus in on  
18 the signature line.

19 Q. What is signed by customer?

20 A. AMG Services, signed by Joseph S. Ragman, printed Joseph S.  
21 Ragman, VP.

22 MR. RAVI: You can take that down.

23 At this time I'd like to offer Government Exhibits  
24 1311, 1316, 1317, 1318 and 1319.

25 THE COURT: Any objection?

H9qWtuc3

Mitchell - Direct

1 MR. GINSBERG: No to 1311. No to 1316. No to 1317.  
2 Is that all? Oh. 1318, no objection. 1319, no objection.

3 THE COURT: All right. They are received.

4 (Government Exhibits 1311 and 1316-1319 received in  
5 evidence)

6 BY MR. RAVI:

7 Q. Mr. Mitchell, generally what are these five documents that  
8 were just shown on the screen to you?

9 A. Those were invoices to purchase domain names.

10 Q. From who?

11 A. Company GoDaddy.

12 Q. And what was the purpose of purchasing the domain names?

13 A. So you'd have a web page to be able to go to or an email to  
14 be able to sent from.

15 MR. RAVI: Let's publish Government Exhibit 1311;  
16 we'll just go through a couple of these.

17 Q. If you can, what's the date of this invoice?

18 A. 2/13, 2009.

19 MR. RAVI: Highlight what's under billing information.

20 Q. If you could just read that for us.

21 A. Joseph Ragman, AMG Services Inc., 3531 P Street NW, P.O.  
22 Box 111, Miami, Oklahoma, 7433 -- sorry. 74355.

23 Q. Thank you. And below that is there some payment  
24 information?

25 A. Correct.

H9qWtuc3

Mitchell - Direct

1 Q. What's the name listed for the payment information?

2 A. Tim J. Muir.

3 MR. RAVI: Let's turn now to Government Exhibit 1319.

4 Q. Does this exhibit, what's the date on this invoice?

5 A. 10/20, 2010.

6 Q. Does this also list Joseph Ragman under shipping  
7 information and billing information?

8 A. Yes, it is.

9 Q. And what's the name for the payment that's provided?

10 A. The Muir Law Firm LLC.

11 Q. And what are the domain names that are being purchased  
12 there?

13 A. SFSincorporated.com, mnescrib.com and redcedar.com.

14 MR. RAVI: Turn now to 1317.

15 Q. What's the date on this invoice?

16 A. 6/8, 2011.

17 Q. Does this similarly have Joseph Ragman listed under  
18 shipping and billing information?

19 A. Yes, it does.

20 Q. Does it have the Muir Law Firm under, as part of the  
21 payment information?

22 A. Yes, it does.

23 Q. And does this invoice relate to Eclipse Renewables, if you  
24 turn to the second page?

25 A. Yes, there's a few different Eclipse Renewables domains on

H9qWtuc3

Mitchell - Direct

1 there.

2 Q. What is Eclipse Renewables?

3 A. That was a company that Scott Tucker owned out of Texas.

4 MR. RAVI: If we could turn now to Government Exhibit  
5 1318.

6 Q. Does this again have Joseph Ragman listed under shipping  
7 and billing information?

8 A. Yes, it does.

9 Q. And the Muir Law Firm as payment information?

10 A. Yes, it does.

11 MR. RAVI: We can take that down.

12 I'd like to publish now Government Exhibit 811, which  
13 is already in evidence, and if you could just zoom in on  
14 settlement agreement.

15 Q. And the second line, does that list Charles Hallinan?

16 A. Yes.

17 MR. RAVI: Turn now to page 42 of the exhibit.

18 Q. And what does it list under AMG Services?

19 A. J.S. Ragman, vice president.

20 Q. Is that next to the signature line for Charles Hallinan?

21 A. Yes.

22 MR. RAVI: Could we turn now to page 115 of this  
23 exhibit. And could we turn to the next page.

24 We can take that down. Now let's go to Exhibit 1312.

25 Q. And what is this that's in front of you?

H9qWtuc3

Mitchell - Direct

1 A. That is a contract from Natalie Ragman for a domain log-in  
2 for Ace Cash Services.

3 Q. Is this from GoDaddy.com as well?

4 A. Yes, it is.

5 MR. RAVI: The government offers 1312.

6 MR. GINSBERG: No objection.

7 THE COURT: Received.

8 (Government Exhibit 1312 received in evidence)

9 MR. RAVI: Please publish it for the jury, and if you  
10 could just zoom in on first name through company.

11 Q. Are you familiar with who Natalie Ragman is?

12 A. No, I'm not.

13 Q. Are you familiar with a Natalie at the company?

14 A. Yes, I am.

15 Q. Which Natalie is that?

16 A. Natalie Dempsey.

17 Q. You just testified that Natalie Dempsey had given you the  
18 name Ragman to use on contracts, correct?

19 A. Correct.

20 Q. Now, to be clear, is Joseph S. Ragman a real person?

21 A. No, he is not.

22 MR. RAVI: You can take that down, Ms. Grant.

23 Q. Mr. Mitchell, when it came to approving vendor contracts,  
24 who gave the approvals for vendor contracts?

25 A. They came from Scott Tucker, Blaine Tucker, Natalie Dempsey

H9qWtuc3

Mitchell - Direct

1 or Tim Muir.

2 Q. And did it depend on the amount or the value of the  
3 contract that you'd need to get a certain person to approve it?

4 A. There was no written amount, but the higher-dollar  
5 contracts did get approved by Scott Tucker himself.

6 Q. Did anyone associated with a Native American tribe approve  
7 any vendor contracts?

8 A. Not to my knowledge, no.

9 Q. At some point were you asked to purchase some phones?

10 A. Yes.

11 Q. What types of phones were you asked to purchase?

12 A. TracFones, otherwise known as burner phones.

13 Q. And when were you asked to purchase these?

14 MR. GINSBERG: Objection, your Honor.

15 THE COURT: Overruled.

16 MR. GINSBERG: Relevance.

17 A. I believe it was winter of 2010.

18 Q. And who asked you to purchase these phones?

19 A. Natalie Dempsey.

20 Q. And were you specifically given any instructions about  
21 where you were to purchase these phones?

22 A. Yes, I was told to go down the street to the Target and  
23 purchase those phones.

24 Q. Were you given any instructions as to how to purchase the  
25 phones?



H9qWtuc3

Mitchell - Direct

1 A. Yeah, I was told to pay with cash and then turn in a  
2 reimbursement form.

3 Q. How many times were you asked to buy these burner phones?

4 A. I made two separate trips down.

5 Q. And how many phones did you purchase each time?

6 A. Two phones each time.

7 Q. Mr. Mitchell, at some point did you make a trip to a Native  
8 American reservation, at some time?

9 A. Yes, I did.

10 Q. When was that, approximately?

11 A. Summer of 2010, I believe.

12 Q. Summer of 2010?

13 A. Sorry. '12. Sorry. 2012.

14 Q. 2012, to be clear?

15 A. Yes.

16 Q. Did anyone travel with you there?

17 A. Yes. Mr. Tucker and Mr. Muir.

18 Q. How did you travel to that reservation?

19 A. Mr. Tucker's private airplane.

20 MR. RAVI: I'd like to show Government Exhibit 4029 on  
21 the screen. The government offers Government Exhibit 4029.

22 THE COURT: Any objection?

23 MR. GINSBERG: Objection. Relevance.

24 THE COURT: Sustained.

25 MR. RAVI: Your Honor, I can make a proffer as to

H9qWtuc3

Mitchell - Direct

1 relevance.

2 THE COURT: You can do it at the sidebar.

3 MR. RAVI: OK.

4 THE COURT: You can do it later. Go on with your  
5 examination.

6 MR. RAVI: For the record, in case this witness isn't  
7 on the stand, could I have him at least identify it?

8 MR. GINSBERG: If he identifies it --

9 THE COURT: Yes. Let me see you at the sidebar.

10 (Continued on next page)

H9qWtuc3

Mitchell - Direct

1 (At sidebar)

2 THE COURT: What's the relevance of the picture?

3 MR. RAVI: At a later point in trial, a witness is  
4 going to be providing information about how tribal accounts  
5 were used to fund various expenses relating to Mr. Tucker's  
6 private jet and large amounts of money being used towards that  
7 private jet, and this identification provides the jury with an  
8 idea of what this money's going towards in terms of the type of  
9 jet it is.

10 THE COURT: An identification does, but not a picture.  
11 What does a picture do? It's a fancy jet, is that it?

12 MR. RAVI: The number that's on the jet.

13 THE COURT: No problem there. You can have him read  
14 the number into the record. That's not a problem.

15 MR. RAVI: That's fine, your Honor.

16 THE COURT: OK, good.

17 (Continued on next page)

H9qWtuc3

Mitchell - Direct

1 (In open court)

2 BY MR. RAVI:

3 Q. Mr. Mitchell, are you aware of a number that was listed on  
4 Mr. Tucker's jet?

5 A. Yes, I am.

6 Q. And what number is that?

7 A. No. 55. You want -- the whole tail number is N551ST.

8 Q. Did you ever learn what the significance of those numbers  
9 are?

10 A. 55 was the number of one of Scott's race cars. In one way,  
11 shape or another, he liked to have the 55. And then 1ST was  
12 for 1 Scott Tucker, because you're either first or you're last.

13 Q. Now, you said you traveled --

14 MR. RAVI: You can take that off the screen.

15 Q. So what was the purpose of this trip to the Miami  
16 reservation -- sorry. Which tribe did you go to?

17 A. We went down to visit the Miami Tribe of Oklahoma.

18 Q. What was the purpose of this trip?

19 A. We wanted to go down and look to see if there was a  
20 possibility of the Miami tribe purchasing a facility to make a  
21 call center down there.

22 Q. After this trip did you become aware of some litigation  
23 involving the FTC?

24 MR. GINSBERG: Objection. Leading, your Honor.

25 THE COURT: Yes. Avoid leading.

H9qWtuc3

Mitchell - Direct

1 I'll tell you what. I'll allow it in this instance  
2 because it's the only way to set the time frame, so I'm going  
3 to reverse myself and say you can ask the question. Go ahead.

4 Q. Did this trip occur after you became aware of an  
5 investigation that became public relating to the FTC?

6 A. Yes.

7 Q. And so what occurred during this trip?

8 A. Went down to look at a building that was in Miami to see if  
9 it was suitable for high-speed Internet and telephone lines for  
10 a call center.

11 (Continued on next page)

12  
13  
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24  
25

H9Q8TUC4

Mitchell - Direct

1 Q. What was the result of your review of the site?

2 A. Because of the small town that it was located in, there was  
3 not enough Internet speed to be able to have that type of  
4 facility in that town.

5 Q. What kind of facility were you looking to have there?

6 A. I was going to add a call center.

7 Q. Do you know if there was ever any call center set up there?

8 A. No.

9 THE COURT: No, you don't know, or no, there wasn't a  
10 call center?

11 THE WITNESS: No, we did not set up a call center down  
12 there.

13 Q. Mr. Mitchell, did you become aware of a gift that Mr.  
14 Tucker purchased for Mr. Muir as a result of a development in a  
15 state court litigation relating to the payday loan business?

16 MR. GINSBERG: Objection, your Honor. Relevance.

17 THE COURT: I will allow it.

18 A. Yes.

19 Q. How did you learn about this gift?

20 A. A tank was driven in on a semi, and we had to move some  
21 cars around to be able to pull the tank down into a parking lot  
22 behind our facility.

23 Q. So you saw this tank come in?

24 A. Yes. I saw the tank come in, and Mr. Muir made us aware  
25 that the tank was coming in and we needed to park it

H9Q8TUC4

Mitchell - Direct

1 downstairs.

2 Q. How did you learn that it was a gift?

3 A. Mr. Muir told me it was a gift.

4 Q. Was there anything that was inscribed on this tank?

5 A. Yes. There was numbers and letters on the side, like you  
6 would see on a normal oil tank or maybe an airplane.

7 Q. What was inscribed on this tank?

8 A. F-U-M-A-G-F-S-T.

9 Q. Who told you what that meant?

10 A. Mr. Muir told me.

11 Q. You can just use the initials of the first two letters.

12 A. FU, Mr. Attorney General, from Scott Tucker.

13 Q. Mr. Mitchell, at some point did you stop working for Mr.  
14 Tucker?

15 A. Yes.

16 Q. When was that?

17 A. In 2014.

18 Q. Why did you end up leaving?

19 A. With the downsizing of the company and learning about all  
20 the lies and deception.

21 MR. GINSBERG: Objection. Move to strike.

22 THE COURT: There came a point in time that you left  
23 the company, is that correct?

24 THE WITNESS: Correct.

25 THE COURT: Next question.

H9Q8TUC4

Mitchell - Direct

1 Q. Now, you worked for the company for over ten years?

2 A. Correct.

3 Q. Were you ever aware during those ten years of anyone other  
4 than Mr. Tucker that controlled the payday loan business?

5 A. No, I'm not.

6 Q. Did anyone other than Mr. Tucker operate the payday loan  
7 business?

8 A. No.

9 Q. Was anyone other than Mr. Tucker the top decision-maker in  
10 this payday loan business?

11 A. No.

12 Q. In those ten years, were you ever directed by someone  
13 associated with a Native American tribe?

14 A. No.

15 Q. How important would you consider your position was to the  
16 payday loan business?

17 A. I would consider it very important.

18 Q. Why is that?

19 A. Without my team the technology wouldn't work, so the call  
20 center agents wouldn't be able to log into a phone, wouldn't be  
21 able to log into their computers, and they wouldn't be able to  
22 do their day-to-day operations.

23 Q. Is it fair to say that the majority of the employees at the  
24 payday loan company were related to the call centers?

25 A. Yes.



H9Q8TUC4

Mitchell - Direct

1 Q. In those ten years, how many people did you learn have  
2 titles in the company?

3 A. Two.

4 Q. Who were those two people? Who is the first person?

5 A. Don Brady.

6 Q. What was his title?

7 A. CEO.

8 Q. Of AMG?

9 A. Correct.

10 Q. Who is the second person that had a title?

11 A. Joe or Joseph Ragman.

12 Q. What was his title?

13 A. VP or vice president.

14 Q. That's a fake person, right?

15 A. Correct.

16 Q. Mr. Mitchell, when you were at the company, did you believe  
17 you were lied to?

18 A. Yes.

19 Q. Who lied to you?

20 A. Mr. Muir and Mr. Tucker, actually both Tuckers, Natalie  
21 Dempsey, basically everybody that was above me in the chain of  
22 command.

23 Q. What did you believe they lied to you about?

24 A. The actual ownership of the company and that we were doing  
25 a true, good business and everything we were doing was on the

H9Q8TUC4

Mitchell - Cross

1 up-and-up.

2 MR. RAVI: Nothing further, your Honor.

3 THE COURT: Cross-examination.

4 MR. GINSBERG: Thank you, your Honor.

5 CROSS-EXAMINATION

6 BY MR. GINSBERG:

7 Q. Mr. Mitchell, I want to take you back to the beginning of  
8 your testimony. Did you indicate that you began to work for  
9 CLK in about 2003?

10 A. Either 2003 or 2004, correct.

11 Q. You indicated certain people who you interacted with  
12 shortly after you became employed, is that correct?

13 A. Yes.

14 Q. I believe you indicated that Ed Cross was your boss?

15 A. Correct.

16 Q. And Blaine Tucker was there at the time?

17 A. Correct.

18 Q. And Scott Tucker?

19 A. Correct.

20 Q. And Crystal Grote?

21 A. Yes.

22 Q. Natalie Dempsey?

23 A. Correct.

24 Q. Also, I believe you indicated that Tim Muir was corporate  
25 counsel?

H9Q8TUC4

Mitchell - Cross

1 A. Correct.

2 Q. That was in 2003 or '04, correct?

3 A. Correct.

4 Q. You're certain of the time period, is that correct?

5 A. Yes.

6 Q. You're sure that you didn't begin working for CLK until  
7 July of 2007?

8 A. I don't believe so, no.

9 Q. Well, what do you mean you don't believe so? There is a  
10 big difference between 2003 and '04 and 2007, isn't there?

11 A. Yes, there is.

12 Q. Is it possible you didn't begin working there until 2007?

13 A. Yes, it is.

14 Q. It is possible?

15 A. Uh-huh.

16 Q. So you could be off by three years in terms of when you  
17 began working there?

18 A. I could be, I guess, yes.

19 Q. So anything you testified to about what you observed or  
20 heard or saw in 2004 or '05 or '06 you wouldn't have known  
21 because you wouldn't have been working there, correct?

22 A. Correct.

23 MR. GINSBERG: I have nothing further.

24 THE COURT: Any other cross-examination?

25 MR. BATH: No.

H9Q8TUC4

1 THE COURT: Redirect.

2 MR. RAVI: No further questions, your Honor.

3 THE COURT: All right. You may step down, sir. Thank  
4 you.

5 (Witness excused)

6 THE COURT: Call your next witness.

7 MR. RAVI: We have one exhibit we would like to  
8 publish.

9 THE COURT: All right.

10 MR. RAVI: At this time, the government offers  
11 Government Exhibit 313.

12 MR. BATH: No objection.

13 THE COURT: Received.

14 (Government's Exhibit 313 received in evidence)

15 MR. RAVI: If we can zoom in on the bottom e-mail, the  
16 "from" and "to" on the bottom.

17 Highlight the "from," the "to" and the "cc," as well  
18 as the date.

19 If we can highlight the body.

20 You can now turn to the next e-mail in the chain.

21 Highlight who it's from.

22 Go to the next e-mail in the chain.

23 Highlight who it is from and to.

24 Go to the next e-mail in the chain.

25 Highlight who this e-mail is from.

H9Q8TUC4

Sanchez - Direct

1 Finally, go to the top e-mail in the chain.

2 Who it is from and to, as well as the cc.

3 At this time, the government calls Athena Sanchez.

4 ATHENA SANCHEZ,

5 called as a witness by the government,

6 having been duly sworn, testified as follows:

7 THE DEPUTY CLERK: State your name and spell it for  
8 the record, please.

9 THE WITNESS: Athena Sanchez, A-T-H-E-N-A,  
10 S-A-N-C-H-E-Z.

11 THE COURT: You may inquire.

12 DIRECT EXAMINATION

13 BY MR. RAVI:

14 Q. Ms. Sanchez, how old are you?

15 A. 44.

16 Q. Where do you currently live?

17 A. Manhattan.

18 Q. Have you lived somewhere previously?

19 A. I lived in the Bronx for 15 years.

20 Q. How long have you lived in Manhattan?

21 A. About a year.

22 Q. How far did you go in school?

23 A. 12th grade.

24 Q. Do you work?

25 A. Yes, I do.

H9Q8TUC4

Sanchez - Direct

1 Q. What do you do?

2 A. Medical billing.

3 THE COURT: Medical?

4 THE WITNESS: Billing.

5 Q. Do you have a family?

6 A. Yes, I do.

7 Q. Do you have children?

8 A. I have three.

9 Q. Are you married?

10 A. No.

11 Q. Ms. Sanchez, have you ever taken out what are called payday  
12 loans?

13 A. Yes.

14 Q. Did you take out payday loans from a company called 500  
15 FastCash?

16 A. Yes.

17 Q. How did you learn about 500 FastCash?

18 A. I was doing research online with regard to payday loans and  
19 they contacted me.

20 Q. How did 500 FastCash contact you?

21 A. I filled out a survey and put my telephone number and they  
22 called me.

23 Q. You were called by a representative of 500 FastCash?

24 A. Yes.

25 Q. Why did they call you?

H9Q8TUC4

Sanchez - Direct

1 A. To inform me that I was eligible for a \$300 loan.

2 Q. How many loans did you end up taking out with 500 FastCash?

3 A. Three in total.

4 Q. What were the amounts of those loans?

5 A. Two were 300 and one was 400.

6 Q. Around what period of time did you take out these loans?

7 A. I would say from 2010 to 2011.

8 Q. Every time you took out one of those three loans, was it  
9 initiated by a phone call?

10 A. Yes.

11 Q. From 500 FastCash?

12 A. Yes.

13 Q. Why did you take out these three loans from 500 FastCash?

14 A. I was having some financial issues, putting a kid through  
15 college, one graduating high school, baby-sitting fees, and I  
16 was doing it on my own.

17 Q. I would like to now show you Government Exhibits 2202, 2204  
18 and 2206.

19 Are these the loan applications that you filled out for 500  
20 FastCash?

21 A. Yes.

22 Q. Are they three separate loan applications?

23 A. Yes.

24 MR. RAVI: The government offers Government Exhibits  
25 2202, 2204 and 2206.

H9Q8TUC4

Sanchez - Direct

1 MR. BATH: No objection.

2 THE COURT: Received.

3 (Government's Exhibits 2202, 2204 and 2206 received in  
4 evidence)

5 Q. Let's turn first to Government Exhibit 2202.

6 What is the date on this loan application?

7 A. July 11, 2010 -- July 1. I'm sorry.

8 Q. If you turn to the second page.

9 Turn to the next page.

10 What was the amount of the loan that you took out?

11 A. \$300.

12 Q. How much did you believe this loan would cost you?

13 A. \$390.

14 Q. How did you come to that belief?

15 A. Where it says "total of payments," will be \$390.

16 Q. Is that the fourth box from the left?

17 A. Yes.

18 MR. RAVI: Can we just highlight that.

19 Q. Let's move on to Government Exhibit 2204.

20 Is this the second loan that you took out?

21 A. Yes.

22 Q. What is the date on this one?

23 A. December 9, 2010.

24 Q. Can we turn to the third page.

25 How much was this loan for?



H9Q8TUC4

Sanchez - Direct

1 A. \$300.

2 Q. How much did you understand that this loan would cost you?

3 A. \$390.

4 Q. If we can turn now to the third application. That's  
5 Government Exhibit 2206.

6 What is the date of this application?

7 A. May 10, 2011.

8 Q. If we turn now to the third page.

9 What was the amount of this loan?

10 A. \$400.

11 Q. How much did you understand that this loan would cost you  
12 once you took it out?

13 A. \$520.

14 MR. RAVI: If you can zoom out.

15 Q. So was that a finance charge of \$120?

16 A. Correct.

17 Q. Again, where did you understand that it would cost \$520?

18 A. Where it says "total of payments," it says \$520.

19 Q. Were you also told anything on these phone calls about the  
20 cost of your loan?

21 A. That there would be a \$120 financing fee.

22 Q. So in connection with this particular loan, the third loan  
23 that we talked about, you had a discussion with a  
24 representative of 500 FastCash regarding how much your loan  
25 would cost you?

H9Q8TUC4

Sanchez - Direct

1 A. Correct.

2 Q. What were you told on that phone call?

3 A. That it would be \$520.

4 Q. Now, Ms. Sanchez, there is some language that's below those  
5 four boxes. Do you see that?

6 A. Yes.

7 Q. Do you recall whether you read that language at the time  
8 you took this loan out?

9 A. No, I did not.

10 Q. Have you since read that language?

11 A. Yes.

12 Q. Is reading that language change your impression that your  
13 \$400 loan cost you \$520?

14 A. No.

15 Q. Now, how was the amount of these loans deposited into your  
16 account?

17 A. The withdrawal from the company -- deposit from the  
18 company.

19 Q. It was done directly?

20 A. Directly, correct.

21 Q. What about the withdrawals for the payments?

22 A. They were taken out directly from my bank account.

23 Q. Did you encounter any problems with the third loan?

24 A. I noticed that I kept getting overdraft fees for  
25 withdrawals being taken out, so I started checking through my

H9Q8TUC4

Sanchez - Direct

1 accounts and I saw that there was more than a thousand dollars  
2 taken out of my account.

3 Q. More than a thousand dollars for your \$400 loan?

4 A. For my \$400 loan.

5 Q. What was the first thing you did when you realized there  
6 was a problem?

7 A. I started investigating. I tried calling, and I didn't get  
8 through. So I started doing some research online, and I saw  
9 that there were a whole bunch of disputes online in regards to  
10 this, these payday loans.

11 Q. What did you do after that?

12 A. I followed the link to a Web site which gave me advice on  
13 how to send a cease and desist letter, which in turn I sent to  
14 the company.

15 Q. I would like to show you now on the screen Government  
16 Exhibit 2210.

17 Is this a copy of your cease and desist?

18 A. Yes.

19 MR. RAVI: The government offers Government Exhibit  
20 2210.

21 MR. BATH: No objection.

22 THE COURT: Received.

23 (Government's Exhibit 2210 received in evidence)

24 MR. RAVI: If we can focus in on the "from" and "to"  
25 at the bottom.

H9Q8TUC4

Sanchez - Direct

1 Q. Who is this e-mail from and to, Ms. Sanchez?

2 A. It's from me to customer service at 500 FastCash.

3 Q. What is the date?

4 A. September 9, 2011.

5 Q. What is the subject line?

6 A. Cease and desist.

7 MR. RAVI: We can zoom out of that.

8 Let's just turn to the second page and publish it.

9 Turning back to the first page. And if we can now  
10 focus in on the top e-mail.

11 Q. What is the date of this e-mail?

12 A. September 22, 2011.

13 Q. Why did you send this e-mail?

14 A. The advice that I got from sending the first letter said to  
15 follow-up after a certain amount of days if I didn't hear back  
16 from the company, which is when I sent the second e-mail.

17 MR. RAVI: You can take that down.

18 Q. Ms. Sanchez, did you end up getting a response from your  
19 cease and desist letter?

20 A. I called and I finally got through to someone, and I had a  
21 conversation with them, and they told me that I had agreed to  
22 extending the loan and that they weren't going to give me any  
23 money back.

24 Q. After you received that response, did you contact anyone  
25 else?

H9Q8TUC4

Sanchez - Direct

1 A. I sent the letters to Federal Trade Commission, Attorney  
2 General and the Better Business Bureau.

3 Q. Would that be the New York Attorney General's Office?

4 A. Correct. Yes.

5 Q. I would like to show you now Government Exhibit 2207.

6 Is this the letter that you sent to the New York Attorney  
7 General's Office?

8 A. Yes.

9 Q. Actually, turn to the third page of this letter.

10 Is this the letter that you sent?

11 A. Yes.

12 MR. RAVI: The government offers Government Exhibit  
13 2207.

14 MR. BATH: Only this letter or everything in there?

15 MR. RAVI: Everything in there.

16 MR. BATH: No objection.

17 THE COURT: Received.

18 (Government's Exhibit 2207 received in evidence)

19 Q. If we can now turn to the first page.

20 Do you know what this first page of Government Exhibit 2207  
21 is, Ms. Sanchez?

22 A. I can't see.

23 Q. Have you seen this letter before?

24 A. Yes.

25 Q. Who is this letter from? Is it from the New York Attorney

H9Q8TUC4

Sanchez - Direct

1 General's Office?

2 A. Yes, from the New York Attorney General's Office.

3 THE COURT: Keep your voice up, please.

4 THE WITNESS: I'm sorry.

5 A. From the Attorney General's Office.

6 Q. Is it addressed to 500 FastCash?

7 A. Yes.

8 Q. Is this a letter that's basically sending your complaint to  
9 500 FastCash through the New York Attorney General's Office?

10 A. Yes.

11 Q. Was the letter you sent very similar to what was contained  
12 in your cease and desist e-mail?

13 A. Yes.

14 MR. RAVI: We can take that down.

15 Q. Ms. Sanchez, did you ever get a refund of the over \$1,000  
16 that you paid to 500 FastCash?

17 A. No.

18 Q. At some point were you informed that your loan was written  
19 off?

20 A. Yes.

21 Q. The rest of the payments for your loan?

22 A. Well, I had paid way more than what I was supposed to, so  
23 yes.

24 Q. How were you informed of that?

25 A. I received a letter.

H9Q8TUC4

Sanchez - Direct

1 Q. I would like to show now Government Exhibit 2208.

2 MR. RAVI: The government offers Government Exhibit  
3 2208.

4 MR. BATH: No objection.

5 THE COURT: Received.

6 (Government's Exhibit 2208 received in evidence)

7 Q. Ms. Sanchez, is this the letter from 500 FastCash?

8 A. Yes.

9 Q. What is the date on this letter?

10 A. February 17, 2012.

11 Q. Is this letter actually addressed to Tyler Fane of the  
12 Bureau of Consumer Frauds and Protection?

13 A. Yes.

14 Q. If you could just read the body of the e-mail?

15 A. "Please be advised that 500 FastCash has written off Ms.  
16 Sanchez's account to zero balance. At this time it is  
17 considered closed. As such we consider this matter closed."

18 Q. Do you understand this to be a response to the complaint  
19 that was sent through the New York Attorney General's Office to  
20 500 FastCash?

21 A. Yes.

22 MR. RAVI: We can take that down.

23 Q. Ms. Sanchez, you had mentioned earlier overdraft fees?

24 A. Yes. I had over \$300 in overdraft fees.

25 Q. Were those associated with 500 FastCash?

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Sanchez - Direct

1 A. Yes.

2 Q. So, Ms. Sanchez, in total, how much did you pay for that  
3 third loan that you took out?

4 A. I believe it was \$1,070.

5 Q. Not including the overdraft fees?

6 A. Not including overdraft fees.

7 Q. I would like to now show you Government Exhibit 2213.

8 Do you recognize this?

9 A. Yes.

10 Q. What is it?

11 A. It's a breakdown of all the payments that I made.

12 Q. Have you reviewed bank statements of yours from TD Bank  
13 relating to deposits and withdrawals relating to 500 FastCash?

14 A. Yes.

15 Q. Did you check those bank statements against this chart to  
16 determine whether or not this chart accurately reflects the  
17 dates and amounts of certain withdrawals and deposits?

18 A. Yes.

19 MR. RAVI: The government offers Government Exhibit  
20 2213.

21 MR. BATH: No objection.

22 THE COURT: Received.

23 (Government's Exhibit 2213 received in evidence)

24 MR. RAVI: Please publish the first page.

25 We can zoom in on the first portion all the way



H9Q8TUC4

Sanchez - Direct

1 through subtotal.

2 Q. Are these the credits and debits associated with the first  
3 loan you took out?

4 A. Yes.

5 Q. And how much in total was the loan?

6 A. \$300.

7 Q. How much was debited?

8 A. 975.

9 Q. At the time when these debits were happening, did you  
10 recognize there was a problem with your first loan?

11 A. No.

12 MR. RAVI: Can we actually put the first and second  
13 page side by side.

14 Q. The next loan occurred approximately a week after you paid  
15 out in full for the first loan?

16 A. Correct.

17 Q. The next one was December 10, 2010, correct?

18 A. Yes.

19 Q. Ms. Sanchez, do you think you would have had to have taken  
20 out another loan on December 10, 2010 had you only paid \$390  
21 for your first loan?

22 A. No.

23 Q. How much did you pay in total for your second loan of \$300?

24 A. 975.

25 Q. Approximately two weeks later, after you had paid out for

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Sanchez - Cross

1 that loan, you took out the third loan of \$400, correct?

2 A. Yes.

3 Q. Do you think you would have had to take out that \$400 loan  
4 had you only paid \$390 for your second loan?

5 A. No.

6 Q. It was only during this third loan that you realized there  
7 was a problem, correct?

8 A. Correct.

9 Q. In total, what was the loan amounts that you received from  
10 500 FastCash?

11 A. A thousand dollars.

12 Q. In total, how much did you pay back to 500 FastCash?

13 A. 3,000 --

14 Q. Does that say \$3,020?

15 A. Yes. \$3,020. Sorry.

16 MR. RAVI: No further questions.

17 THE COURT: Cross-examination.

18 Mr. Bath.

19 CROSS-EXAMINATION

20 BY MR. BATH:

21 Q. Ms. Sanchez, as I understand it, you got three loans from  
22 500 FastCash, is that correct?

23 A. Yes.

24 Q. The first one was in July of 2010, correct?

25 A. Yes.

H9Q8TUC4

Sanchez - Cross

1 Q. Then December of 2010, correct?

2 A. Yes.

3 Q. Then May of '11, correct?

4 A. Yes.

5 Q. Didn't you have payday loans prior and during this time  
6 with other companies?

7 A. I don't recall.

8 Q. You don't recall having six loans with seven or eight  
9 different payday loan companies during this time period?

10 A. No.

11 Q. Have you reviewed your bank statements before you came here  
12 today?

13 A. Yes, I did.

14 MR. BATH: Can we put 2212 up for her, please.

15 Q. Is 2212 the bank statements that you provided the  
16 government in preparation for today?

17 A. Yes.

18 Q. Did you provide them so that they could create that summary  
19 chart that we saw at the very end?

20 A. The bank did.

21 Q. I know that. But that summary chart --

22 A. Yes.

23 Q. That's where all that information came out of these bank  
24 records, didn't it?

25 A. Yes.

H9Q8TUC4

Sanchez - Cross

1 MR. BATH: I would offer 2212 in evidence.

2 THE COURT: Any objection?

3 MR. RAVI: No objection.

4 THE COURT: Received.

5 (Government's Exhibit 2212 received in evidence)

6 Q. Let me show you the first page.

7 Is that first page up for you, Ms. Sanchez?

8 A. Yes.

9 Q. Can we go to the bottom two entries -- I'm sorry. Before  
10 that.

11 This document, the first one is June through July of 2010.  
12 Can you see that? I can blow it up for you.

13 A. No, I can see it.

14 Q. So this is before you even take a loan out with 500  
15 FastCash, correct?

16 A. Yes.

17 MR. BATH: If we can go to the bottom two entries on  
18 that first page.

19 Q. Am I reading that correctly, on 6/23 there is a withdrawal  
20 from National PDL. Do you see that?

21 A. Yes, I do.

22 Q. Does that PDL stand for payday?

23 A. I have no idea. I don't recall those.

24 Q. This is your account?

25 A. It is.

H9Q8TUC4

Sanchez - Cross

1 Q. You're not suggesting that National PDL debit of 125 has  
2 anything to do with 500 FastCash, correct?

3 A. No.

4 Q. But you're not sure if it's a payday loan or not?

5 A. No, I'm not.

6 Q. Below that, we have another debit, Nationwide Cash. Do you  
7 see that?

8 A. Yes, I do.

9 Q. For \$90?

10 A. Yes.

11 Q. Is that a payday loan?

12 A. I'm not sure. I just went through that today.

13 Q. You just went over these records today?

14 A. Yes. I just double-checked over everything and noticed all  
15 of these today.

16 Q. Was somebody else on this account with you?

17 A. I'm sorry?

18 Q. Was anybody else on this account?

19 A. No.

20 Q. Just you?

21 A. Yes.

22 MR. BATH: Can we turn to the third page of that  
23 document, the very first top three.

24 Q. This is still in June of 2010, correct, Ms. Sanchez?

25 A. Yes.

H9Q8TUC4

Sanchez - Cross

1 Q. And we see a debit from NLS Cash Adv, is that correct?

2 A. Yes.

3 Q. For \$61?

4 A. Yes.

5 MR. RAVI: Objection. Relevance.

6 THE COURT: I will allow it.

7 Q. Did I read that correctly?

8 A. Yes.

9 Q. Is that a payday loan?

10 A. I'm not sure.

11 Q. Below that, there is a debit from Paycheck Today. Do you  
12 see that?

13 A. Yes.

14 Q. For \$60?

15 A. Yes.

16 Q. Is that a payday loan?

17 A. I don't know.

18 Q. If these aren't payday loans, do you have any idea what  
19 these debits are?

20 A. I didn't check my bank statements regularly.

21 Q. My question is then, you were blaming or said that you  
22 wouldn't have gotten that second or third loan from FastCash if  
23 it hadn't been for the first one sort of charging you too much,  
24 correct?

25 A. Correct.

H9Q8TUC4

Sanchez - Cross

1 Q. But is it fair to say, as we look at your bank statements,  
2 there were lots of other debits that you can't explain as you  
3 sit here today?

4 A. Yes.

5 Q. There are probably more if we went through here?

6 A. Probably.

7 Q. Have you looked at them recently before you came in?

8 A. Yes.

9 Q. Do you see more like that?

10 A. Yes.

11 Q. And they have the same similar names we went over, right?

12 A. Yes.

13 Q. Multiple times throughout your bank records, correct?

14 A. Yes.

15 Q. Then I won't take you through all of those then.

16 MR. BATH: If we can put up 2202. This has been  
17 admitted.

18 Q. This is the application for the very first loan, correct,  
19 Ms. Sanchez?

20 A. Yes.

21 MR. BATH: If we can go to page 2.

22 Q. You see that under the privacy policy it says, "application  
23 supplement"? Do you see that language?

24 A. Yes.

25 Q. It begins, the first three words are "short terms loans."

H9Q8TUC4

Sanchez - Cross

1 Do you see that?

2 A. Yes, I do.

3 Q. Did you read this when you did the application?

4 A. No.

5 Q. Have you read it before coming in here today?

6 A. Yes.

7 MR. BATH: The same document, please, if we can go to  
8 the last page.

9 If we can blow up box 8, payment options.

10 Q. Do you see that, Ms. Sanchez?

11 A. Yes.

12 Q. Did you read this at all?

13 A. No.

14 Q. Have you read it before you came in today?

15 A. Yes.

16 Q. Do you see that it talks about renewals or paydowns,  
17 correct?

18 A. Yes.

19 MR. BATH: You can take that down. Thank you.

20 Q. So you get that first loan July 1st of 2010 for \$300,  
21 correct?

22 A. Correct.

23 Q. And we saw the summary chart the government put up, and if  
24 you need it, I will get it back up for you. But, essentially,  
25 it took money out so many weeks, the six or seven or eight



H9Q8TUC4

Sanchez - Cross

1 weeks we saw, correct?

2 A. Yes.

3 Q. What you're telling us today then is that you just weren't  
4 checking your bank statements?

5 A. No, I didn't.

6 Q. So you had no idea how much that loan was costing you?

7 A. Exactly.

8 Q. But we do know that you didn't apply for the second loan  
9 from 500 FastCash until that first one was done, correct?

10 A. Correct.

11 Q. Did you try to apply before the first one was paid off and  
12 they wouldn't let you?

13 A. No.

14 Q. You just went and got a second loan?

15 A. Correct.

16 Q. Again, the same language is in that application we just  
17 saw, isn't it?

18 A. Yes.

19 Q. Again, you didn't read either of those boxes or this  
20 language, is that fair to say?

21 A. Yes.

22 Q. Again, that loan went through a number of payments, did it?

23 A. Yes.

24 Q. Just like the first one did?

25 A. Yes.

H9Q8TUC4

Sanchez - Cross

1 Q. And again, what you're telling us today is you just didn't  
2 pay attention?

3 A. No, I didn't.

4 Q. I asked you before about the first loan.

5 When that second loan was going, were there any other  
6 kind of loans you were taking out then, payday loans?

7 A. I don't remember.

8 Q. It's possible?

9 A. Possible.

10 Q. Those other payday loans, or whatever those debits were,  
11 did that cause you a lot of overdraft fees as well?

12 A. No.

13 Q. None of those caused you any overdraft fees?

14 A. No.

15 Q. Then you got the third loan, which is in May of '11,  
16 correct?

17 A. Correct.

18 Q. It had the same kind of language as the first two, right?

19 A. Yes.

20 Q. Again, you didn't read it?

21 A. No.

22 Q. It was after a few payments there, that's when you saw it  
23 in your statements?

24 A. Yes.

25 Q. That's when you began to make complaints?

H9Q8TUC4

Sanchez - Redirect

1 A. After I calculated everything, yes.

2 MR. BATH: That's all I have. Thank you.

3 THE COURT: Redirect?

4 MR. RAVI: Brief redirect, your Honor.

5 REDIRECT EXAMINATION

6 BY MR. RAVI:

7 Q. Ms. Sanchez, at any time when you were taking these loans  
8 out from 500 FastCash, did you agree to an automatic renewal of  
9 your loan?

10 A. No.

11 Q. You were called by 500 FastCash in connection with these  
12 three loans, correct?

13 A. Yes.

14 Q. And on those calls, they told you were prequalified for a  
15 loan?

16 A. Yes.

17 Q. And on these calls, they never told you that your loan  
18 would be automatically renewed, correct?

19 A. Correct.

20 MR. RAVI: No further questions.

21 THE COURT: You may step down. Thank you very much.

22 (Witness excused)

23 THE COURT: You may call your next witness.

24 Ladies and gentlemen, you can stand up and stretch.

25 And remember to take a deep breath also.

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Hicks - Direct

1 MR. RAVI: The government calls Michael Hicks.

2 MICHAEL HICKS,

3 called as a witness by the government,

4 having been duly sworn, testified as follows:

5 THE DEPUTY CLERK: State your name and spell it for  
6 the record, please.

7 THE WITNESS: My name is Michael, M-I-C-H-A-E-L,  
8 Hicks, H-I-C-K-S.

9 THE COURT: You may inquire.

10 DIRECT EXAMINATION

11 BY MR. RAVI:

12 Q. Mr. Hicks, how old are you?

13 A. I'm 66.

14 Q. Where do you currently live?

15 A. I split my time between Venice, Florida, and Kansas City,  
16 Missouri, as my wife recently passed away.

17 Q. How far did you go in school?

18 A. I went through a senior in high school.

19 Q. Are you currently employed?

20 A. Semi-retired.

21 Q. What do you currently do in semi-retirement?

22 A. I would work on telephone systems.

23 Q. Generally describe your work history.

24 A. I was a road musician for six years, and then gone in the  
25 telephone business and continued to work in that business for

H9Q8TUC4

Hicks - Direct

1 some time.

2 Q. At some point did you come to meet an individual named  
3 Scott Tucker?

4 A. Yes, I did.

5 Q. Describe the circumstances how you initially met Scott  
6 Tucker.

7 A. We were living in the same neighborhood in Leawood, Kansas,  
8 and I collected muscle cars, and he would stop occasionally and  
9 look at the cars and we would talk about them.

10 Q. Approximately when was this first meeting?

11 A. Probably '95 or '96.

12 Q. What is a muscle car?

13 A. It's a car that Detroit produced through the 60s.  
14 Basically, they used their largest engine in their intermediary  
15 cars and were a lot of fun to drive.

16 Q. Did you eventually begin to work for Mr. Tucker?

17 A. Yes.

18 Q. In what capacity?

19 A. Originally, we got into a discussion about what I did for a  
20 living, and when I told him I worked on telephones, he  
21 suggested I might come by his office and see if there are any  
22 improvements I could make to his phone system.

23 Q. Did you end up doing some work for Mr. Tucker relating to  
24 various telephone systems?

25 A. Yes. I did some improvements to his voice mail and added a

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Hicks - Direct

1 phone or two to his system.

2 Q. Was this related to call centers?

3 A. I didn't understand that at the time.

4 Q. Did you later learn what type of business the call centers  
5 were related to?

6 A. Eventually, yes.

7 Q. What type of business was that?

8 A. It was payday loans.

9 Q. What kind of business at the time did Mr. Tucker tell you  
10 he was involved in?

11 A. I don't know that we really discussed that.

12 Q. Approximately what years did you end up doing work for Mr.  
13 Tucker relating to telephone systems?

14 A. Well, that time frame was the '97 to '98 range at that  
15 time, the first time that I did some work for him.

16 Q. Did you continue to work with Mr. Tucker at a later time?

17 A. There was a later time. I sold my business out and my role  
18 in the new company was as a salesman, and I made a sales call  
19 to talk about a call center.

20 Q. Did you continue to do work with Mr. Tucker relating to the  
21 call center?

22 A. I prepared a proposal and a competitor bid, and I  
23 recommended he go with the competitor because it was a better  
24 fit, because it was a call center at that point.

25 Q. Did he go with that competitor?

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Hicks - Direct

1 A. I think so, yes.

2 Q. After that project, did you then do additional work with  
3 Mr. Tucker relating to telephones?

4 A. In 2002 or so, I had left the company I sold out to, and  
5 I'm not sure how we reconnected, but we reconnected and he had  
6 me come over and install a couple of phone systems for some  
7 companies he was starting up.

8 Q. What kind of business were those companies involved in?

9 A. At the time I didn't exactly know, but I came to understand  
10 they were payday loan businesses.

11 Q. At some point, did you begin to do other types of work for  
12 Mr. Tucker?

13 A. Yes.

14 Q. What year was that, approximately?

15 A. Probably in the 2003-2004 range. I built a car for him and  
16 some real estate, we did some real estate work, and we talked  
17 about, I guess -- probably that's all at that point.

18 Q. Let's briefly talk about the car.

19 Did you build cars for Mr. Tucker?

20 A. I did. I built a car called an Eleanor Mustang for the  
21 movie Gone in 60 Seconds, and it took a year to complete and  
22 delivered it to him.

23 Q. Approximately how many total cars did you build for Mr.  
24 Tucker?

25 A. Probably over a period of four to five years, it would have

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Hicks - Direct

1 been eight to ten of them.

2 Q. Were you paid for this work?

3 A. Yes.

4 Q. Through which company were you paid?

5 A. To the best of my knowledge, it was a company called DF  
6 Services.

7 Q. DF Services?

8 A. D as in dog, F as in Frank Services.

9 Q. Are you familiar with an individual named Charles Hallinan?

10 A. I met him once at a race in Italy.

11 Q. What type of race was this?

12 A. It was a Ferrari challenge international meet in Milan I  
13 think.

14 Q. Who was racing?

15 A. Scott was racing in the Ferrari challenge.

16 Q. Describe your discussion with Charles Hallinan.

17 A. It was small talk, but he introduced himself as Scott's  
18 partner.

19 Q. Are you aware of how often Mr. Hallinan and Mr. Tucker  
20 spoke?

21 MR. GINSBERG: Objection, your Honor. There is no  
22 foundation for this.

23 THE COURT: We will find out what the answer is.

24 Do you know or are you aware?

25 THE WITNESS: Yes. I was aware of Saturday



H9Q8TUC4

Hicks - Direct

1 conversations. There were conversations that they would have  
2 on Saturdays.

3 Q. Do you know how often?

4 A. There was a time when it was every Saturday, to my  
5 knowledge.

6 Q. At some point did you have a discussion with Mr. Tucker  
7 about whether you had Native American heritage?

8 A. Yes. The legend in my family is that my great-grandmother  
9 was 100 percent Cherokee, and I was pretty proud of that and  
10 talked about it, and one day he asked me if I was on the rolls.

11 Q. What are the rolls?

12 A. Well, the Indian tribes maintain rolls of people on their  
13 lists, you know, so that you can be a card-carrying Native  
14 American.

15 Q. Why did Mr. Tucker approach you about whether you were on  
16 the rolls?

17 A. The premise, I suppose you would say, was that he would  
18 like me to go out and visit Indian tribes for a possible  
19 business venture.

20 Q. Did Mr. Tucker explain to you why he wanted to approach  
21 Native American tribes?

22 A. The tribes are sovereign nations, and when you do business  
23 with them, you're doing business with a nation and you follow  
24 federal laws, not state laws.

25 Q. Did Mr. Tucker tell you anything about what the relevance

H9Q8TUC4

Hicks - Direct

1 of a bank that he was working with was to approaching the  
2 Native American tribes?

3 A. Well, I didn't understand completely at the time, but there  
4 was a bank that he did business with, and he was no longer  
5 going to be able to do business with them, and that the Indian  
6 tribes would be a suitable replacement for that function.

7 Q. Did Mr. Tucker explain to you how his payday business would  
8 be impacted if he couldn't work with tribes?

9 A. Well, as it relates to the bank, I understood that if the  
10 bank relationship went away, he would be out of business.

11 Q. How would that impact you?

12 A. Well, at the time I was building cars for him and my car  
13 business would be closed.

14 Q. Did you end up approaching any Native American tribes for  
15 Mr. Tucker?

16 A. Yes. I visited the Lac Vieux Desert in Michigan, and I  
17 visited the Santee Sioux, and the Cheyenne River Sioux I  
18 believe was the other tribe.

19 Q. Did you end up having a meeting with the Santee Sioux?

20 A. Yes. With the Santee Sioux, I actually met with the  
21 council.

22 Q. The tribal council?

23 A. Yes, the tribal council.

24 Q. Where is the Santee Sioux located?

25 A. It's in Northern Nebraska on the Missouri River, kind of

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Hicks - Direct

1 north central, something like that.

2 Q. When you went to that location, what did you observe as to  
3 the Santee Sioux's financial condition?

4 A. It looked pretty poverty stricken to me.

5 Q. So you met with the tribal council, correct?

6 A. I did.

7 Q. Describe generally what happened at that meeting.

8 A. I was given a brochure with bullet points on it, and my  
9 instructions were to present what was on the brochure, go  
10 through the talking points, and then if there was any interest,  
11 turn it over to Scott.

12 Q. Who gave you that brochure?

13 A. Scott did.

14 Q. Who told you what to say?

15 A. Scott did.

16 Q. Mr. Tucker wasn't at that meeting?

17 A. No.

18 Q. It was just you and the tribal council?

19 A. Correct.

20 Q. So what happened after that meeting with the Santee Sioux  
21 at the tribal council?

22 A. Well, you know, they obviously said they would get back to  
23 us if there was some interest. As I was leaving out the back,  
24 a fellow stopped me, gave me his card, Conly Schulte introduced  
25 himself.

H9Q8TUC4

Hicks - Direct

1 Q. What did you do after you left that meeting?

2 A. Well, at some point I came back and gave Scott a report of  
3 how I thought the meeting went, and then gave him Conly  
4 Schulte's business card.

5 Q. Were you involved in any further negotiations relating to  
6 the agreement with the Santee Sioux?

7 A. No.

8 Q. Did you later see the people you met at the Santee Sioux?

9 A. The Santee Sioux, they came into our office one day.

10 Q. This was after you had met with them, correct?

11 A. Yes. Yes.

12 Q. Did you speak with them?

13 A. You know, hi, how you doing type thing. I recognized  
14 Roger. I didn't recognize some of the other guys. I said hi  
15 to Conly, he was there.

16 Q. Do you know why he came to your offices?

17 A. I found out that it was to sign -- to do some kind of a  
18 deal. I didn't know any particulars about it.

19 Q. To do a deal with Mr. Tucker?

20 A. Yes.

21 Q. Which offices?

22 A. The offices off of College Boulevard, I think it's Lowell.

23 Q. Mr. Tucker's payday loan business offices?

24 A. Yes.

25 Q. Is that in Overland Park, Kansas?

H9Q8TUC4

Hicks - Direct

1 A. Yes, it is.

2 Q. Were you invited to participate in that meeting with the  
3 Santee Sioux?

4 A. I was not.

5 Q. Were you compensated for your work in introducing Mr.  
6 Tucker to the Santee Sioux?

7 A. During the period when I was doing the visitations, I was  
8 on a salary. Once the Santee Sioux signed, then my pay came  
9 from real estate work that I did for him.

10 Q. Mr. Hicks, did you also serve as a nominee for Mr. Tucker?

11 A. I did.

12 Q. When, approximately?

13 A. From, you know, 2004, perhaps, to 2005 or '06.

14 Q. Did you have discussions with Mr. Tucker about being a  
15 nominee?

16 A. Yes. He had me in the office one day and explained to me  
17 that he would compensate me for signing documents that would  
18 allow him to remain anonymous.

19 Q. Did you read any of these documents before you signed them?

20 A. No.

21 Q. Did you end up serving as a nominee?

22 A. Say that again.

23 Q. You ended up serving as a nominee, correct?

24 A. Yes, I did.

25 Q. I would like to show you Government Exhibits 1205 and 1206.

H9Q8TUC4

Hicks - Direct

1 Do you recognize these documents, Mr. Hicks?

2 A. I recognize my signature.

3 Q. Mr. Hicks, are these documents relating to Mr. Tucker's  
4 payday loan business?

5 A. The explanation to me was it was a settlement agreement  
6 with the State of Kansas.

7 Q. If we can turn to the last page on these.

8 A. You want me to turn there?

9 Q. Yes, please.

10 A. Yes.

11 Q. Those are signatures on both 1205 and 1206?

12 A. Yes.

13 Q. On 1205, which company did you sign for?

14 A. Cash Advance.

15 Q. Can you continue reading?

16 A. "Cash Advance, a business entity of CB Service Corp. in the  
17 State of Kansas, Carson City, Nevada."

18 Q. Turning to 1206, can you read what company you signed on  
19 behalf of?

20 A. "United Cash Loans, a business entity of Silver State  
21 Business Administrators, Carson City, Nevada."

22 Q. Are these both signed in 2005?

23 A. Yes.

24 MR. RAVI: You can take those down.

25 Q. Mr. Hicks, approximately how many documents did you sign

H9Q8TUC4

Hicks - Direct

1 for Mr. Tucker?

2 A. Including the real estate transactions, there were hundreds  
3 perhaps.

4 Q. I would like to show you now Government Exhibits 1201,  
5 1202, 1203 and 1211.

6 MR. RAVI: The government offers those exhibits.

7 MR. GINSBERG: No objection.

8 THE COURT: Received.

9 (Government's Exhibits 1201, 1202, 1203 and 1211  
10 received in evidence)

11 Q. Now, are all of these exhibits, 1201, 1202, 1203 and 1211,  
12 related to companies that you signed on behalf of Mr. Tucker?

13 A. Yes.

14 Q. Let's go to, for example, 1201.

15 A. OK.

16 Q. What is the company this relates to?

17 At the very top.

18 A. NM Service Corp.

19 Q. What is the date on the right side?

20 A. 9/21/2005.

21 Q. Are you listed as the president, secretary, treasurer, and  
22 director?

23 A. Yes, all four.

24 Q. Is that your signature on the bottom?

25 A. Yes, it is.

H9Q8TUC4

Hicks - Direct

1 Q. Let's just turn to the second page.

2 Is that the same for 2006?

3 A. Yes.

4 Q. Turn to Government Exhibit 1202.

5 On the top left, which company did you sign on behalf of  
6 here?

7 A. Silver State Business Administrators.

8 Q. Again, you were listed as president, secretary, treasurer,  
9 and director?

10 A. Yes, sir.

11 Q. Is this for the years 2005 and 2006 as well?

12 A. Yes.

13 Q. Go to Government Exhibit 1203.

14 Here you signed on behalf of Universal Management  
15 Services?

16 A. Yes.

17 Q. Is this also for 2005 and 2006?

18 A. Yes.

19 Q. Again, you are the president, secretary, treasurer, and  
20 director?

21 A. Yes.

22 Q. Is that your signature at the bottom?

23 A. That one I'm not sure about. All the rest of them I  
24 recognize. This one I'm not sure about.

25 Q. Finally, let's turn to Government Exhibit 1211.



H9Q8TUC4

Hicks - Direct

1 Here, did you sign on behalf of Black Creek Capital  
2 Corporation?

3 A. Yes.

4 Q. Again, is that for 2005 and 2006?

5 A. Yes.

6 Q. Can we turn to the third page of this PDF.

7 Did you also sign for Black Creek Capital Corporation in  
8 2007?

9 A. 2007, I don't see my signature on here.

10 Q. Mr. Hicks, you might be able to look on the screen as well.

11 A. I still don't see my signature.

12 Q. Your signature is not on this page, correct?

13 A. Correct.

14 Q. But are you listed as the president, secretary, treasurer,  
15 and director of Black Creek Capital Corporation?

16 A. Yes.

17 Q. Turn to the next page.

18 Does this list now Tim Muir as the president, secretary,  
19 treasurer, and director of Black Creek Capital Corporation?

20 A. Yes.

21 Q. If we continue, is he listed as those positions for several  
22 years?

23 A. Yes.

24 MR. RAVI: We can take that down.

25 Q. Turning to Government Exhibit 1204.

H9Q8TUC4

Hicks - Direct

1 MR. RAVI: The government offers Government Exhibit  
2 1204.

3 MR. GINSBERG: No objection.

4 THE COURT: Received.

5 (Government's Exhibit 1204 received in evidence)

6 Q. Do you know what this document is?

7 A. It says "service agreement" on it.

8 MR. RAVI: If we can just zoom in on the first  
9 paragraph.

10 Q. Can you just read that?

11 A. "This agreement is entered into this 28th day of February  
12 2005, by and between the SFS, Inc., a corporation wholly owned  
13 by the Santee Sioux Nation, chartered pursuant to the laws of  
14 the Santee Sioux Nation and Universal Management Services,  
15 Inc."

16 Q. The Santee Sioux Nation is the tribe you visited on behalf  
17 of Mr. Tucker, correct?

18 A. That's correct.

19 MR. RAVI: Can we turn to the last page of this  
20 document.

21 If we can zoom in on the signature line.

22 Q. Did you sign this agreement on behalf of Universal  
23 Management Services, Inc.?

24 A. Yes.

25 Q. What is the title that's provided there?

H9Q8TUC4

Hicks - Direct

1 A. Vice president contracts.

2 Q. Were you the vice president of contracts for Universal  
3 Management Services?

4 A. Not that I was aware of.

5 Q. Did you do any work for Universal Management Services?

6 A. I did not.

7 MR. RAVI: Take that down.

8 Q. Mr. Hicks, were you ever involved in any legal proceedings  
9 as a result of your role as a nominee?

10 A. Yes. I was arrested and jailed probably in 2007 or 2008  
11 for failing to show up for a court subpoena for the state of  
12 Colorado.

13 Q. Was that one of those subpoenas issued to one of the  
14 companies for which you signed on behalf of Mr. Tucker?

15 A. Yeah, one of the Nevada corporations. I don't remember  
16 which one.

17 Q. When were you arrested, approximately?

18 A. I don't know exactly. Like I say, 2007 or 2008, at 9:00 at  
19 night.

20 Q. What did you do when you got arrested?

21 A. Well, I went to jail and got an orange suit, and was  
22 allowed to make a phone call and I called my wife, and she  
23 called Tim Muir.

24 Q. Were you ultimately let out of jail?

25 A. Yes. 23 hours later.

H9Q8TUC4

Hicks - Direct

1 Q. Mr. Hicks, other than what you testified about, did you  
2 have conversations with Mr. Tucker about his payday loan  
3 business?

4 A. Generally speaking, if there was anything to do with his  
5 payday loan business, I was always asked to leave his office.

6 Q. Was there a reason --

7 THE COURT: Mr. Ravi, do you have much more?

8 MR. RAVI: Probably three more questions.

9 THE COURT: Go ahead.

10 Q. Is there any reason you didn't speak to him about his  
11 payday loan business?

12 A. Well, any time one of the people that worked within that  
13 business would come in, I would always be asked to leave.

14 Q. What locations were you asked to leave by Mr. Tucker when  
15 he was talking about his payday loan business?

16 A. Primarily his office, but on one occasion on the corporate  
17 jet.

18 Q. What did you do when you were on the jet and you were asked  
19 to leave?

20 A. Well, we were just visiting, and then the conversation  
21 turned to business and he asked me to go to the back of the  
22 plane.

23 Q. Did Mr. Tucker ever instruct you how to characterize his  
24 business?

25 A. It was a financial services business.

H9Q8TUC4

Hicks - Direct

1 Q. Was there a time you didn't follow that instruction?

2 A. There were occasions, but he would correct me if I said the  
3 wrong thing.

4 MR. RAVI: No further questions.

5 THE COURT: All right. Ladies and gentlemen, why  
6 don't we take our mid-afternoon break. Please do not discuss  
7 the case among yourselves or with anyone. Keep an open mind.  
8 Take a deep breath while you're standing up and walking in the  
9 jury room, and I will see you in ten minutes. Thank you.

10 (Jury exits courtroom)

11 THE COURT: See you in ten.

12 (Recess)

13 (Continued on next page)

H9qWtuc5

Hicks - Cross

1 (In open court)

2 THE COURT: Please get our jury.

3 (Jury present)

4 THE COURT: Please be seated.

5 How's everybody doing? All right?

6 You may cross-examine, Mr. Ginsberg.

7 MR. GINSBERG: Thank you. I'm doing OK.

8 THE COURT: Good. You're an everybody too.

9 MR. GINSBERG: I appreciate that.

10 CROSS-EXAMINATION

11 BY MR. GINSBERG:

12 Q. Good afternoon, Mr. Hicks.

13 A. Hi.

14 Q. You testified that on quite a few occasions you signed  
15 documents as a nominee on behalf of Scott Tucker, is that  
16 correct?

17 A. Correct.

18 Q. And on every occasion that you signed a document, would it  
19 be fair to say that Scott Tucker authorized you to sign on his  
20 behalf as his nominee? Is that correct?

21 A. That was my understanding.

22 Q. OK. And when you talked about the unpleasant incident  
23 where you were arrested and ended up in an orange --

24 A. Suit.

25 Q. -- suit, that was because you were told you had failed to

H9qWtuc5

1 appear in a court proceeding. Is that correct?

2 A. Correct. There was a subpoena outstanding for me, which I  
3 did not get served with.

4 Q. Right. So when you got arrested, you found out there was a  
5 subpoena, you hadn't known until that time --

6 A. Correct.

7 Q. -- that there was a subpoena for you, is that correct?

8 A. That's correct.

9 Q. And that's why you had not appeared, correct?

10 A. That's correct.

11 Q. And that's what that arrest was about, correct?

12 A. Correct.

13 Q. And nothing else, correct?

14 A. Correct.

15 MR. GINSBERG: I have no further questions.

16 THE COURT: All right. Any redirect?

17 MR. RAVI: No, your Honor.

18 THE COURT: You may step down.

19 (Witness excused)

20 MR. RAVI: At this time, your Honor, the government  
21 would like to introduce three emails.

22 THE COURT: All right.

23 MR. RAVI: First, the government offers 1209 and 1208.

24 THE COURT: Any objection?

25 MR. GINSBERG: No.

H9qWtuc5

1 THE COURT: Received.

2 (Government Exhibits 1208-1209 received in evidence)

3 MR. RAVI: Focus 1209 first and focus on the bottom,  
4 please. Highlight the date; now the body.

5 Turn to the next email up the chain and highlight the  
6 "from Tim Muir" and the "to" line.

7 Next email up the chain. Highlight the "from" and  
8 "to" lines. Highlight the last clause of that, "all the  
9 stuff."

10 Go to the next email up the chain.

11 Then go to the next email.

12 And finally, go to the last email in the chain.

13 And publish Government Exhibit 1208. Could we focus  
14 on the email in the middle that begins "from Tim Muir to Angie  
15 Lee, August 5 at 1923:27.

16 Highlight beginning with "please give me a specific  
17 example."

18 Turn to the email above in the chain. Highlight  
19 "from" and "to"; highlight the first sentence.

20 Highlight now the first two lines of the next  
21 paragraph.

22 Go now to the next email of the chain; highlight the  
23 "from" and "to," please.

24 The government would like to now offer Government  
25 Exhibit 1014.



H9qWtuc5

MR. BATH: No objection.

THE COURT: Received.

(Government Exhibit 1014 received in evidence)

MR. RAVI: Could we focus on the subject lines and "from" and "to" lines.

Highlight "from Tim Muir."

Highlight "to Scott Tucker."

Now please highlight the subject line.

Focus now on the first email in the chain under that subject line.

Focus on the next email up the chain. Highlight the date and Tim Muir.

Please go to the next email of the chain.

Highlight the date and Scott Tucker. Highlight the body of that email.

And then finally, let's go to the top email of the chain, from Tim Muir down to the body.

You can take that down, Ms. Grant.

MR. VELAMOOR: The government calls Mary Porting, your Honor.

MARY L. PORTING,

called as a witness by the Government,

having been duly sworn, testified as follows:

THE COURT: You may inquire.

MR. VELAMOOR: Thank you, your Honor.

H9qWtuc5

Porting - Direct

1 DIRECT EXAMINATION

2 BY MR. VELAMMOOR:

3 Q. Good afternoon, Ms. Porting. Are you testifying this  
4 afternoon pursuant to an order of immunity?

5 A. Yes.

6 Q. What is your understanding of your obligations under that  
7 order?

8 A. To tell the truth.

9 Q. What is your understanding of any protections that you have  
10 if you, in fact, tell the truth?

11 A. That anything I say won't be used against me in a  
12 prosecution against me.

13 Q. Ms. Porting, how old are you?

14 A. 51.

15 Q. Where are you from?

16 A. Kansas City, Missouri.

17 Q. How far did you go in school?

18 A. Two years of college.

19 Q. When did you finish your studies in school?

20 A. 1991.

21 Q. And after you finished your studies, what kind of work did  
22 you do?

23 A. Payroll accounting. Customer service.

24 Q. How long did you do that type of work for?

25 A. For about ten years.

H9qWtuc5

Porting - Direct

1 Q. Have you previously been convicted of any crimes?

2 A. Yes.

3 Q. How many times?

4 A. Three.

5 Q. What did you do generally to make you guilty of those  
6 crimes?

7 A. I stole from my employers.

8 Q. And how many times did you do that?

9 A. Three.

10 Q. And during what time period did you commit those crimes?

11 A. 1993, 1998 and 2002.

12 Q. And you said you stole from your employers?

13 A. Yes.

14 Q. How much, approximately, did you steal each time?

15 A. \$2,000, I believe, the first time and around 8,000 the  
16 second, the two other times.

17 Q. And were you convicted of felony offenses for those?

18 A. Yes.

19 Q. Did you go to trial, or did you plead guilty in those  
20 cases?

21 A. I pled guilty.

22 Q. And did you serve any time in jail?

23 A. No.

24 Q. Were you subjected to any other penalties?

25 A. Restitution and fines and home detention.

H9qWtuc5

Porting - Direct

1 Q. Are you still, in fact, paying fines?

2 A. I'm paying restitution on a couple of them still.

3 Q. So you mentioned before that you did payroll accounting  
4 work, right?

5 A. Right.

6 Q. And that was after you finished your studies. How long did  
7 you do that kind of work for?

8 A. From about 1991 until about 2002.

9 Q. And after you finished that kind of work, what did you do  
10 next?

11 A. I got a job doing customer service with National Money.

12 Q. And when you say National Money, what kind of a company was  
13 National Money?

14 A. Payday lending.

15 Q. And approximately when did you start working for National  
16 Money?

17 A. June of 2003.

18 Q. How did you hear about this company?

19 A. There was an ad in the paper.

20 Q. An ad for what kind of job?

21 A. Customer service.

22 Q. And obviously you responded to the ad?

23 A. Right.

24 Q. And then what happened after that?

25 A. I was hired on.

H9qWtuc5

Porting - Direct

1 Q. And that was around 2003?

2 A. Yes.

3 Q. Did the people at the company come to know about your  
4 criminal history?

5 A. They did.

6 Q. How did they learn about it?

7 A. I was being sentenced in October of 2003, and I needed to  
8 let my employer know, so I approached my employer.

9 Q. And you told them about the case?

10 A. Yes.

11 Q. What was the reaction?

12 A. They were supportive. They wrote letters to the court  
13 letting the court know that I will have a job.

14 Q. And so you continued to work there?

15 A. Yes.

16 Q. You said National Money Service was a payday lending  
17 company?

18 A. Yes.

19 Q. Whose company was it?

20 A. Scott's and Blaine Tucker's, I believe.

21 Q. When you started, how big was it?

22 A. I don't know exactly, but I believe there were about 50 to  
23 60 people working there.

24 Q. And where were the offices initially?

25 A. 5700 Broadmoor in Mission, Kansas.

H9qWtuc5

Porting - Direct

1 Q. And did you work at a different office location at a  
2 certain point?

3 A. Yes.

4 Q. Where did you move to?

5 A. Overland Park, Kansas, in April of 2004.

6 Q. And where did you sit when you moved to that office?

7 A. At first I sat in the fraud department with Norma Tucker.  
8 And then I sat with Anita Finney's group outside of Scott  
9 Tucker's office.

10 Q. Now, you mentioned the name National Money Service. Was  
11 that the name that the company did business under, or were  
12 there other names?

13 A. There were other names.

14 Q. Do you recall any of those names?

15 A. OneClickCash, Ameriloan, US FastCash, Ace Cash, Advantage,  
16 500 FastCash.

17 Q. And did you work for all of those different businesses or  
18 just one of them, initially?

19 A. Initially it was just Fast Cash, National Money.

20 Q. And was Fast Cash affiliated, to your knowledge, with any  
21 other entity out there?

22 A. Affiliated with -- I'm not sure I understand what you're  
23 asking.

24 Q. Let me ask you a better question. Are you aware of a  
25 company called County Bank?

H9qWtuc5

Porting - Direct

1 A. Yes.

2 Q. To your knowledge, was there some connection between 500  
3 FastCash and County Bank?

4 A. Yes.

5 Q. Now, did you become familiar with something called loan  
6 renewals?

7 A. Yes.

8 Q. What were loan renewals?

9 A. Where the customer would, instead of paying the entire loan  
10 amount that was due, they would be able to just pay a finance  
11 charge and continue to roll over the loan.

12 Q. And how do the loan renewals work for 500 FastCash?

13 A. 500 FastCash, when I began, the loan was automatically paid  
14 in full on its first due date. We had to email the customers  
15 and ask them if they wanted to just pay the finance charge.

16 Q. And that was for the 500 FastCash?

17 A. Right.

18 Q. What about the other portfolios?

19 A. The other portfolios, I believe, were different, and they  
20 would automatically renew.

21 Q. All right. Did there come a time when you learned that  
22 Native American tribes had become involved in the business?

23 A. Yes.

24 Q. Approximately when was that?

25 A. I believe in March, April of 2005.

H9qWtuc5

Porting - Direct

1 Q. And how did you come to learn about that?

2 A. We started to get mail. My department became responsible  
3 for mail, and we were told that we were getting it, but the  
4 addresses were in Oklahoma and in Nebraska on tribal land.

5 Q. The addresses for the businesses?

6 A. Yes.

7 Q. What addresses had you been using before that?

8 A. Addresses in Nevada.

9 Q. But you throughout this time were located where?

10 A. In Overland Park, Kansas.

11 Q. Let me show you what's been marked Government Exhibit 1408.  
12 Have you had a chance to look at 1408?

13 A. Yes.

14 Q. What is it?

15 A. It's an email regarding tracking of the mail from the  
16 different places we were receiving it from in, on the tribal  
17 lands.

18 MR. VELAMOOR: Your Honor, the government offers 1408.

19 THE WITNESS: Yes.

20 THE COURT: Any objection?

21 MR. BATH: No.

22 MR. GINSBERG: No, your Honor.

23 THE COURT: Received.

24 (Government Exhibit 1408 received in evidence)

25 MR. VELAMOOR: Thank you, your Honor. May we show it



H9qWtuc5

Porting - Direct

1 to the jury?

2 THE COURT: You may.

3 MR. VELAMOOR: Let's just start with the header  
4 information.

5 Q. You said this is from someone called Anita Finney?

6 A. Yes.

7 Q. What job did she do at the company?

8 A. She was the executive assistant to Scott Tucker.

9 Q. And she sent this email, dated August 23, 2005, right?

10 A. Correct.

11 Q. And she sent it to Scott Tucker, right?

12 A. Yes, that's what it says here. Yes.

13 Q. Crystal Cram. Who was Crystal Cram?

14 A. She was the operations manager.

15 Q. And you're also copied on the email, right?

16 A. Right.

17 Q. And does this email relate generally to this mail process?

18 A. Yes.

19 Q. How did the mail work, as in the forwarding of mail?

20 A. The mail, the addresses for the companies were given out as  
21 Oklahoma and Nebraska. They would receive the mail and then  
22 FedEx the mail to us each day. In Overland Park.

23 MR. VELAMOOR: OK. Let's move to the body of that  
24 email.

25 Q. Do you want to just read the third paragraph?

H9qWtuc5

Porting - Direct

1 A. You want me to read that?

2 Q. Yes.

3 A. "We have tested the mail for a substantial amount of time  
4 at this point, and I am attaching the records for the return  
5 mail for each location. If all are in agreement that we have  
6 sufficient data to make a decision on the change of addresses  
7 we will cease the mail testing. Please advise."

8 Q. Just continue to the second one and we'll stop there.

9 A. "It appears that only the MTE location may be an issue.  
10 They continue to hold some of the mail for more than one day  
11 before forwarding to KC. The response I have gotten is that  
12 there is so little they do not see a reason for forwarding."

13 Q. Do you know what MTE stands for?

14 A. I can't remember exactly. It was one of the tribes.

15 Q. OK.

16 A. But I can't remember exactly what it meant.

17 Q. OK. At the end do you see where it says, "Lee at SFS  
18 location has contacted me asking when the mail forwarding will  
19 begin and is anxious to begin." Do you see that?

20 A. Uh-huh.

21 Q. And on the next page, there are some mail-tracking  
22 statistics?

23 A. Uh-huh.

24 THE COURT: You have to answer in words.

25 THE WITNESS: Oh, sorry.

H9qWtuc5

Porting - Direct

1 A. Yes.

2 MR. VELAMOOR: Thank you, your Honor.

3 If we could focus on the top paragraph.

4 Q. Is this generally tracking how long it's taking for mail to  
5 get to Kansas City, to and from Kansas City and the tribal  
6 locations?

7 A. Yes.

8 Q. OK. Now, when you learned that there were tribes becoming  
9 involved in the business, did anything other than the mail  
10 procedures change, from your perspective?

11 A. No.

12 Q. Now, when you first started at the company, what kind of  
13 position did you have?

14 A. I was a loan processor with Fast Cash.

15 Q. And does that mean you had interactions, for example, with  
16 customers of the business?

17 A. Correct.

18 Q. I'm going to show you Government Exhibits 2502, 3001, 3203,  
19 3202 and 3201. Could you take a look at what those are.

20 Have you had a chance to look at those?

21 A. Yes.

22 Q. What are they?

23 A. These are the Internet loan applications for, looks like  
24 Ameriloan, United Cash Loans and 500 FastCash.

25 Q. Are they for various different customers?

H9qWtuc5

Porting - Direct

1 A. It does look like they are for different customers.

2 MR. VELAMoor: Your Honor, the government offers 2502,  
3 3001, 3201, 3202 and 3203.

4 THE COURT: Any objection?

5 MR. BATH: No.

6 THE COURT: Received.

7 (Government Exhibits 2502, 3001, and 3201-3203  
8 received in evidence)

9 BY MR. VELAMoor:

10 Q. Let's just go very quickly just through the first page, the  
11 customer name and address for each one, so we'll start with  
12 2502.

13 A. OK.

14 Q. Highlight the top part.

15 A. Ashley Lane.

16 Q. For which portfolio?

17 A. 500 FastCash.

18 Q. And where is Ashley Lane from?

19 A. Plattsburg, New York.

20 Q. 3001?

21 A. Cicely Aronica. I'm not sure how to pronounce her name.

22 Q. Want to just spell it out?

23 A. A-R-O-N-I-C-A, from Bronx, New York.

24 Q. And which company?

25 A. That's United Cash Loans.

H9qWtuc5

Porting - Direct

1 Q. All right. 3201.

2 A. Debbie Case from Wilson, North Carolina.

3 Q. And which company?

4 A. OneClickCash.

5 Q. 3202?

6 A. Kelly Burns from San Ramon, California, and that's for 500  
7 FastCash.

8 Q. And lastly, 3203.

9 A. Nicole Balduf from Bristol, New Hampshire, and that's for  
10 Ameriloan.

11 Q. Now, when you were working in customer service, did you  
12 come across loan documents like that, documents that were  
13 presented to customers?

14 A. I did come across loan documents when I did loan  
15 processing. In the beginning, we were still using faxed loan  
16 documents, so it was a little bit different.

17 Q. But you didn't stay in customer service for very long,  
18 correct?

19 A. No.

20 Q. What job did you move to?

21 A. The refinance department.

22 Q. OK. And how long did you do that work for?

23 A. I can't remember exactly. A few months.

24 Q. Did you ultimately work for something called the compliance  
25 department?

H9qWtuc5

Porting - Direct

1 A. Yes.

2 Q. And approximately when did you start working for that  
3 department?

4 A. I started working in it when I was doing evening work. I  
5 believe it was around November of 2004.

6 Q. And --

7 A. Part time.

8 Q. Sorry.

9 Did that department exist before you started doing work for  
10 it?

11 A. I do not believe so.

12 Q. You were the first or one of the first members?

13 A. Uh-huh.

14 Q. What was the purpose of that department?

15 A. To respond to Better Business Bureau complaints and state  
16 attorney general complaints.

17 Q. And how come a department was created to deal with the  
18 Better Business Bureau and attorney general complaints?

19 A. Because we were, companies were growing and receiving more  
20 and more complaints.

21 Q. And so, was there some procedure in place to make sure that  
22 the compliance department dealt with complaints from either the  
23 Better Business Bureau or attorney generals?

24 A. A procedure was created.

25 Q. What was, generally, that procedure?

H9qWtuc5

Porting - Direct

1 A. That all the debits would stop on the account and generally  
2 the account was written off.

3 Q. So we'll come back to that in a second. Did you become  
4 familiar with some of the substance of these different  
5 complaints from the Better Business Bureau and the state  
6 attorney generals?

7 A. Yes.

8 Q. What were some of the more common types of complaints?

9 A. That they didn't understand the terms --

10 Q. Terms of what?

11 A. The terms of the loan. They didn't understand the terms of  
12 the loan.

13 Q. Which parts of the loan?

14 A. The pay down, the refinance part.

15 Q. OK. Go ahead.

16 A. They were upset about debits to their account, repeated  
17 debits. They were concerned about the laws of their state not  
18 conforming to what we were charging.

19 Q. Did you get complaints from various different states?

20 A. Yes.

21 Q. Did you get complaints from the state of New York?

22 A. Yes.

23 Q. How do you recall a complaint from the state of New York?

24 A. I remember the name Eliot Spitzer from when he was an  
25 attorney general, and that was on the letters.

H9qWtuc5

Porting - Direct

1 Q. OK. Now, you said that you were in this department when it  
2 was first being created, right, the compliance department?

3 A. Correct.

4 Q. How did you know initially how to respond to these  
5 different complaints?

6 A. I conferred with my boss, Anita Finney, and we spoke with  
7 her boss, our boss, Scott Tucker.

8 Q. What guidance did you get from Mr. Tucker about what to do  
9 about these complaints?

10 A. We were to not really address any of the issues they were  
11 asking about as far as laws or anything, and to write off  
12 the -- write off the balance of the account.

13 Q. Did Mr. Tucker explain why that was the approach he wanted  
14 you to take?

15 A. No.

16 Q. Did Ms. Finney ever describe the reasons for this approach?

17 A. Pretty much her explanation several times was just to keep  
18 the wolf at the door.

19 Q. Keep the what? Sorry?

20 A. The wolf at the door. We did not want to attract  
21 attention.

22 Q. Now, when you'd go to Mr. Tucker about these complaints,  
23 did he ever ask you questions about the details of any  
24 particular customer's loan?

25 A. No.



H9qWtuc5

Porting - Direct

1 Q. What kind of -- what, if any, information did he want to  
2 know about any individual complaints?

3 A. Not really any details, just maybe what state it was from.

4 Q. So you would get these complaints, you would write them  
5 off, right?

6 A. Right.

7 Q. When you say write them off, what do you mean?

8 A. The balance would become zero and the account would be  
9 closed. They would not have debits to their account any  
10 longer.

11 Q. And would you communicate your decision to anybody?

12 A. Generally not. If we answered the Better Business Bureau  
13 or the state, we would let them know that the account balance  
14 was zero.

15 Q. Did you prepare these letters and send them out?

16 A. In the beginning, yes.

17 Q. And what, if any -- did you get any guidance from  
18 Mr. Tucker?

19 A. We did in the very beginning, and again, it was just to  
20 tell the customer that their balance was zero and we were sorry  
21 for any miscommunication about the loan.

22 Q. I'm going to show you what's been marked as Government  
23 Exhibit 1406. Have you had a chance to look at 1406?

24 A. Yes.

25 Q. What is it?

H9qWtuc5

Porting - Direct

1 A. It's a, it's an account that we received a complaint from  
2 the Better Business Bureau and from the state of New York.

3 Q. And --

4 A. We wrote off the balance of this account.

5 Q. And is it an image from the ecash system?

6 A. Yes, it is.

7 Q. What was that system?

8 A. It was the system that we issued loans from and did all of  
9 our debiting, staged debiting and everything from.

10 MR. VELAMOOR: Your Honor, the government offers 1406.

11 MR. BATH: No objection.

12 THE COURT: Received.

13 (Government Exhibit 1406 received in evidence)

14 MR. VELAMOOR: Ms. Grant, would you show it to the  
15 jury. Can you zoom in on the top section there.

16 Q. Can you tell the name of the customer whose account is at  
17 issue here?

18 A. Athena Sanchez.

19 MR. VELAMOOR: Scroll down a little bit. There's a  
20 comment section there. There's an agent listed on the top.

21 Q. Who is that agent listed on the top?

22 A. Mary Porting.

23 Q. That's you, right?

24 A. That's me, uh-huh.

25 Q. Does that mean you've taken some action --

H9qWtuc5

Porting - Direct

1 THE COURT: You have to answer in words.

2 MR. VELAMOOR: Sorry, your Honor.

3 THE WITNESS: I'm sorry.

4 A. Yes.

5 Q. Does that mean you've taken some action on this account?

6 A. Yes.

7 Q. And you took that action after some complaints were  
8 received, correct?

9 A. Correct.

10 Q. Complaints from where?

11 A. From the state of New York and from the Better Business  
12 Bureau.

13 Q. And what did you do with this account after those  
14 complaints were received?

15 A. I wrote off the balance.

16 Q. How can you tell that you wrote off the balance?

17 A. At the top of the sheet, it says balance zero.

18 MR. VELAMOOR: Zoom in on that, at the top.

19 Q. And again, is the action you took here consistent with the  
20 instructions you got from Mr. Tucker?

21 A. Correct.

22 Q. I'll show you what's been marked as Government Exhibit  
23 1403.

24 MR. VELAMOOR: Can we put it on the witness's screen.  
25 It's on the screen?

H9qWtuc5

Porting - Direct

1 Q. Ms. Porting, I believe it's on the screen in front of you.

2 A. Yes.

3 Q. What is 1403?

4 A. It is a online Better Business Bureau complaint that we  
5 would receive.

6 Q. From who?

7 A. From the Better Business Bureau.

8 Q. On behalf of who, can you tell?

9 A. It is OneClickCash.

10 Q. And can you tell who the consumer is?

11 A. T. Martin.

12 MR. VELAMOOR: Your Honor, the government offers 1403.

13 MR. BATH: No objection.

14 THE COURT: Received.

15 (Government Exhibit 1403 received in evidence)

16 MR. VELAMOOR: Why don't we just turn to -- well,  
17 let's focus on the top there.

18 Q. There's an email from the OCC compliance department to you.  
19 Do you see that?

20 A. Yes.

21 Q. What's the purpose of that?

22 A. If I remember correctly, all the -- there were several  
23 different email boxes for the compliance department for each  
24 company, and that I had my own personal email, and the  
25 complaints would be then forwarded to me from those.

H9qWtuc5

Porting - Direct

1 Q. For you to handle?

2 A. For me to handle.

3 Q. And what kind of complaint is this?

4 A. A Better Business Bureau complaint.

5 Q. And if you'd turn to the second page, do you see the  
6 substance of the Better Business Bureau complaint that T.  
7 Martin made?

8 A. Yes.

9 Q. And I believe that his name is actually spelled out  
10 completely. Do you see that?

11 A. I didn't. Oh, Tafoya Martin. Yes.

12 Q. OK. Take a second, but what do you understand the essence  
13 of Mr. Martin's complaint to be?

14 A. Basically that he did not understand the repayment terms.

15 Q. Again, was that a common complaint that you received?

16 A. Yes, it was.

17 Q. And can you tell what you did in response to this  
18 complaint, or what you think you might have done?

19 A. Not sure. I may have went ahead and written it off. We  
20 may have asked him to pay the difference that he thought he  
21 should owe, \$120. I'm not sure.

22 Q. And generally speaking, if you were to ask someone to pay  
23 the difference, what would the company generally do for a  
24 person who refused?

25 A. We would write them off.

H9qWtuc5

Porting - Direct

1 Q. Are you familiar with someone named Tim Muir?

2 A. Yes.

3 Q. Who is he?

4 A. Lawyer at AMG.

5 Q. And do you remember approximately when -- was he at AMG  
6 when you started?

7 A. No.

8 Q. He came afterwards?

9 A. Yes.

10 Q. Do you recall approximately when?

11 A. In 2006, I believe.

12 Q. How, if at all, did -- were you still in the compliance  
13 department at the time?

14 A. Yes.

15 Q. How, if at all, did your compliance work change when  
16 Mr. Muir joined?

17 A. They told me that I wouldn't be answering the state  
18 complaints anymore; I would do the research and give the  
19 information to the legal department, him, to answer the  
20 complaints.

21 Q. Would you still be involved in writing off the loans as  
22 before?

23 A. Yes.

24 Q. So which part were you not going to be doing now?

25 A. I was not going to be crafting the letters.

H9qWtuc5

Porting - Direct

1 Q. The letters to who?

2 A. To the states.

3 Q. Now, did you learn initially how Mr. Muir intended to  
4 handle correspondence with the states?

5 A. At first, at least this is what I was led to believe, that  
6 we weren't answering the state letters.

7 Q. So you would continue to write off the loans?

8 A. Write off the loans, but we weren't answering the letters.

9 Q. In other words?

10 A. Responding.

11 Q. Sending a response to the states?

12 A. Correct.

13 Q. Did that continue to be the approach, or did that change?

14 A. It did change. I don't know when it changed.

15 Q. Now, to your knowledge, did Mr. Muir work by himself, or  
16 did he have people working for him?

17 A. He started to have people working for him.

18 Q. Who do you recall were some of the people?

19 A. Chris Muir, Jared Marsh, Kent Dreyer. There were a couple  
20 of others, but I don't remember their names.

21 Q. And was Chris Muir related in any way to Tim Muir?

22 A. I believe he was his brother.

23 Q. You mentioned that the initial instruction you got from  
24 Scott Tucker was to write off these loans, right?

25 A. Correct.

H9qWtuc5

Porting - Direct

1 Q. Did that change when Mr. Muir arrived on the scene?

2 A. No.

3 Q. I'm going to show you what's been marked as Government  
4 Exhibit 1401. Have you had a chance to look at 1401?

5 A. Yes.

6 Q. What is it?

7 A. It is an email from one of the collection groups and from  
8 Chris Muir, and is asking us to quietly write off an account  
9 due to a state complaint.

10 MR. VELAMOOR: Your Honor, the government offers 1401.

11 MR. BATH: No objection.

12 THE COURT: Received.

13 (Government Exhibit 1401 received in evidence)

14 MR. VELAMOOR: Could we show this to the jury, please.  
15 All right. Let's start on the second page. Actually -- sorry.  
16 Go to the third page.

17 Q. Can you tell who the customer complainant is here?

18 A. Not really. Not from the second page.

19 Q. Sorry. Go to the third page.

20 A. From -- yeah, Amanda Vaughn.

21 Q. Now we can go to the second page.

22 A. OK.

23 Q. Let's just focus on the first paragraph.

24 A. OK.

25 Q. Do you want to just read the first couple sentences, up to



H9qWtuc5

Porting - Direct

1 438, \$438?

2 A. "I reside in Pennsylvania, and have for the entire course  
3 of the loan I received from you. According to Pennsylvania  
4 state statutes, United Cash Loans is in violation of  
5 Pennsylvania's small loan rate cap, which states that loan fees  
6 are limited to \$9.50 per \$100 per discount or 24 percent per  
7 year, which means that the loan I have with United Cash Loans  
8 in the amount of \$400 on 10/9/09 by Pennsylvania state law  
9 should have been charged \$38 in interest for a principal of  
10 \$438."

11 Q. OK. Now, you mentioned before that one of the common  
12 complaints was people complaining that the loan violated the  
13 state laws. Do you recall that?

14 A. Correct.

15 Q. Is this one such example?

16 A. Yes.

17 Q. What's the loan portfolio at issue for this one?

18 A. United Cash Loans.

19 Q. Now let's move to the first page. And let's start with Kim  
20 Brennan's email. Is this email sent to you?

21 A. Yes, it does look like that.

22 Q. And who is Kim Brennan?

23 A. She worked in the collections department, but I'm not sure  
24 exactly what her role was.

25 Q. When this complaint was sent to you, was it sent to you

H9qWtuc5

Porting - Direct

1 because it was a state related, state law-related complaint?

2 A. Right, because they mentioned their state laws.

3 Q. And so if someone mentioned state laws, what happened to  
4 those complaints?

5 A. They would come to compliance.

6 Q. So then the email is forwarded from Chris Becker, who is  
7 copied on this email. Who is it forwarded to, above?

8 A. To Chris Muir.

9 Q. And again, who did Chris Muir work for?

10 A. Tim Muir.

11 Q. And then Chris Muir responds above and copies you?

12 A. Correct.

13 MR. VELAMOOD: Why don't we just highlight Chris  
14 Muir's response.

15 Q. Can you read that out?

16 A. "If not already done so, counsel would like this account  
17 'quietly' written off. Also, FYI, the attorneys do have, and  
18 are working on, the state complaint."

19 Q. And when it says counsel, who did you understand that to be  
20 a reference to?

21 A. Tim Muir.

22 Q. And it says "quietly written off." What does that mean?

23 A. That it would be written off, then we didn't really -- we  
24 didn't contact the customer.

25 Q. Now, how did you typically communicate with Mr. Tim Muir?

H9qWtuc5

Porting - Direct

1 A. If I had to, I would -- it would be direct, face to face.

2 Q. He wasn't copied on this email I just showed you, 1401,  
3 correct?

4 A. Correct.

5 (Continued on next page)

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H9Q8TUC6

Porting - Direct

1 Q. Did you have a discussion with him about e-mailing with  
2 Mr. Tim Muir?

3 A. Early on, with Anita Finney, she told us that he did not  
4 want e-mails sent to him from us, at least from me.

5 MR. VELAMOOR: We can take that down.

6 Q. Let me show you what has been marked as 1304.

7 Did you have a chance to look at 1304?

8 A. Yes.

9 Q. Is it an e-mail?

10 A. Yes.

11 Q. What is it generally about?

12 A. It's about the states that we would not loan in.

13 MR. VELAMOOR: The government offers 1304.

14 MS. LIMANI: No objection.

15 THE COURT: Received.

16 (Government's Exhibit 1304 received in evidence)

17 Q. You said there were states you did not loan in. Who  
18 decided which states you would not loan in?

19 A. That I am not sure of. I'm assuming when we had legal  
20 counsel that it was legal. In the beginning, I am assuming it  
21 was Scott or Blaine or the operations manager.

22 MR. VELAMOOR: Ms. Grant, why don't we show 1304 to  
23 the jury.

24 Q. You weren't on this e-mail, right?

25 A. No.

H9Q8TUC6

Porting - Direct

1 Q. Do you know who Natalie Dempsey was?

2 A. Yes.

3 Q. Who is she?

4 A. I am not sure what her title was. She was my boss in  
5 compliance from 2010 until I left in 2012. She had something  
6 to do with operations.

7 MR. VELAMOOR: We can zoom out of that.

8 Q. Was she higher up than you in terms of the hierarchy?

9 A. Yes.

10 Q. Why don't we focus in on Natalie Dempsey's e-mail by your  
11 cursor there on May 21, 2012.

12 She says, "After a conversation Blaine and I had this  
13 afternoon, I wanted to check with you on the non-funding  
14 states."

15 Do you see that?

16 A. Yes.

17 MR. VELAMOOR: Why don't we zoom in on the list of  
18 states.

19 Q. So it says there, "Blocked for all companies."

20 Were there some states that were off-limits regardless  
21 of which loan portfolio was at issue?

22 A. Yes.

23 Q. Do those appear to be the states for which none of the  
24 companies did any lending?

25 A. Correct.

H9Q8TUC6

Porting - Direct

1 Q. Georgia, right?

2 A. Correct.

3 Q. Kansas?

4 A. Correct.

5 Q. West Virginia?

6 A. Correct.

7 Q. Ohio?

8 A. Correct.

9 Q. Virginia and Arizona?

10 A. Correct.

11 Q. Do you know why any of those states ended up on that list?

12 A. I do know in West Virginia and Ohio's case, we received a  
13 great deal of state complaints, and once that happened, we  
14 blocked those. I believe something happened in Kansas before I  
15 even started that caused that to be a state we didn't loan in.

16 Q. Kansas was where your business was located?

17 A. Right.

18 Q. Then below it says, "States blocked for specific  
19 companies."

20 Do you see that?

21 A. Uh-huh.

22 THE COURT: You have to answer in words.

23 A. Yes.

24 Q. It says, "Nebraska for OCC."

25 Do you know why Nebraska was blocked for OCC?

H9Q8TUC6

Porting - Direct

1 A. Presumably because that's where the tribe was located.

2 Q. Which tribe?

3 A. The Santee Sioux tribe.

4 Q. OCC stands for what?

5 A. One Click Cash.

6 Q. Several companies are listed for Oklahoma. Do you see  
7 that?

8 A. Yes.

9 Q. Which ones?

10 A. 500 FastCash, Ameriloan, United Cash Loans, US FastCash,  
11 that's Advantage Cash Services, and Star Cash.

12 Q. Do you know why those portfolios were not doing lending in  
13 Oklahoma?

14 A. Again, presumably because the tribes that they are  
15 affiliated with were located in Oklahoma.

16 Q. So I understand this right, these portfolios were not  
17 lending in the state where the tribe associated with that  
18 portfolio was located?

19 A. Correct.

20 Q. Now, you mentioned complaints. Did you ever prepare  
21 reports summarizing or totaling up the number of complaints?

22 A. Yes.

23 Q. How come you did that?

24 A. To show the trend of what kind of complaints and the number  
25 that were coming in.

H9Q8TUC6

Porting - Direct

1 Q. Who asked you to do that?

2 A. Initially, Anita Finney.

3 Q. Who did you prepare those reports or summaries for?

4 A. Anita Finney in the beginning. They went to Scott Tucker.  
5 They went to Crystal Cram, or Grote, later. They went to each  
6 of the collection managers and the regular portfolio managers.  
7 And Blaine Tucker.

8 Q. Did the summaries go to Tim Muir?

9 A. They did once he was on, yes.

10 Q. Let me show you what has been marked 1306.

11 Have you had a chance to look at 1306?

12 A. Yes.

13 Q. What is it?

14 A. It is a compilation of complaints from 1999 through 2011  
15 that I had put together and sent to initially Natalie.

16 Q. Is this an e-mail chain in which Natalie forwards the data  
17 you put together to others?

18 A. Correct.

19 MR. VELAMOOR: The government offers 1306.

20 THE COURT: Any objection?

21 MR. BATH: No, sir.

22 THE COURT: Received.

23 (Government's Exhibit 1306 received in evidence)

24 MR. VELAMOOR: May we show this to the jury.

25 Q. Let's start with the bottom e-mail from Natalie Dempsey to



H9Q8TUC6

Porting - Direct

1 Blaine Tucker.

2 So this is Natalie to Blaine, dated August 2, 2011?

3 A. Correct.

4 Q. The subject being compliance?

5 A. Yes.

6 Q. Can you read the first paragraph?

7 A. "Here are the stats on how compliance has grown over the  
8 last few years. Agency cases are those that were the result of  
9 a notification by the Attorney General's Office, Better  
10 Business Bureau, client attorney, or other type of body filing  
11 the complaint. Internal are escalations coming from the floor  
12 and customer threats of filing a complaint with a regulatory  
13 body."

14 MR. VELAMOOR: We can zoom out of that.

15 Q. This is essentially totals for a series of years, right?

16 A. Yes.

17 Q. Are you struggling with your voice?

18 A. I am.

19 Q. Would you like a bottle of water?

20 A. Sure. That would be great.

21 Thank you.

22 THE COURT: Ladies and gentlemen, why don't you stand  
23 up and stretch, please. With a deep breath.

24 Q. Let's start with the 2004 total. Do you see that?

25 A. OK. 2004, there were 99 agency and zero internal.

H9Q8TUC6

Porting - Direct

1 Q. If you can just move on to the next page.

2 A. 2005, there were 486 total, which included 97 agency and  
3 389 internal.

4 2006, there were 1,728 in total, which included 326 agency  
5 and 1,402 internal.

6 In 2007, there were 2,541 in total, which included 499  
7 agency and 2,042 internal.

8 Q. Ms. Porting, maybe I can be more considerate since your  
9 voice is struggling. Why don't I continue.

10 In 2008, 2893 total, 722 agency, 2171 internal?

11 A. Correct.

12 Q. 2009, 4,262 total, which 891 are agency, 3371 are internal?

13 A. Correct.

14 Q. 2010, 6,661 total of which 1509 are agency, 5,152 are  
15 internal?

16 A. Correct.

17 Q. Then 2011, 6,069 total, as of July 31st, 1335 agency, 4,733  
18 internal. Do you see that?

19 A. Correct.

20 Q. Then there is a paragraph there at the bottom:

21 "If the pace continues, we will deal with  
22 approximately 10,404 cases this year. Over the last few  
23 months, Mary has begun categorizing the cases that are coming  
24 in so that we can look at root cause and identify process,  
25 procedures, practices that could be altered."

H9Q8TUC6

Porting - Direct

1           Why don't we move up the chain.

2       A.   OK.

3       Q.   Blaine Tucker tells Natalie Dempsey, "Thanks for the stats.

4       Let's continue to discuss the ongoing functions of this."

5       Right?

6       A.   Yes.

7           MR. VELAMOOR:   Move it up.

8       Q.   Blaine Tucker writes, "This is another reason we are

9       continuing to hit the radar screen."

10           Do you see that?

11       A.   Correct.

12       Q.   At the top, Scott Tucker responds to Blaine, "We have to

13       brainstorm.  It is like we need a whole unit that is

14       specialized in dealing with this."

15       A.   Correct.

16       Q.   Now, you mentioned earlier that some of the more common

17       complaints, state laws, misunderstanding or not understanding

18       the terms.  Did those continue to be common complaints

19       throughout your time at the company?

20       A.   Yes.

21           THE COURT:   Move along, Mr. Velamoor.

22       Q.   Now, without going into any details, was there a news

23       article that came out that you became aware of in the fall of

24       2011?

25       A.   Yes.

H9Q8TUC6

Porting - Direct

1 Q. Did any procedures, in terms of the loan documents, change  
2 after that?

3 A. Yes, I believe so.

4 Q. What do you recall the changes?

5 A. The changes I believe were, we put the names of the tribes  
6 on the loan documents, and they became apparent on the Web site  
7 as well.

8 Q. I will show you what has been marked as 1301, 1302 and  
9 1303.

10 Have you had a chance to look at those?

11 A. Yes.

12 Q. What are they?

13 A. They are conversations regarding changing of the loan  
14 documents.

15 MR. VELAMOOR: Your Honor, the government offers 1301,  
16 1302 and 1303.

17 THE COURT: Any objection?

18 MR. BATH: Not to 1301, Judge.

19 1302 or 1303, no objections.

20 THE COURT: Thank you.

21 Received.

22 (Government's Exhibits 1301, 1302 and 1303 received in  
23 evidence)

24 MR. VELAMOOR: May we just show 1301 to the jury.

25 Q. They are e-mail exchanges. You were not copied on this

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Porting - Direct

1 e-mail, correct?

2 A. No, I was not.

3 Q. Do you see Tim Muir on this chain?

4 A. I do see him cc'd on this.

5 Q. Are there attachments to this e-mail?

6 A. It looks like there are, yes.

7 Q. Let me just go to the third page.

8 Do the attachments include standard versions of the loan  
9 documents sent to customers including the loan note and  
10 disclosure?

11 A. Yes.

12 Q. Why don't we just go back to the first page.

13 The first line, do you see the body of Natalie Dempsey's  
14 e-mail?

15 A. Yes.

16 Q. It says, "New versions of all documents are attached."

17 Do you see that?

18 A. Yes.

19 Q. The only change made was to make the first instance of the  
20 company name in each document read as legal entity d/b/a  
21 company name as opposed to just using the company name.

22 Do you see that?

23 A. Yes.

24 Q. So before, what names would appear on the loan documents?

25 A. I believe it was just the names of United Cash Loans or 500

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Porting - Direct

1 FastCash, One Click Cash.

2 Q. At some point there was a change to add the names of the  
3 legal entity as well?

4 A. Yes.

5 Q. Again, this e-mail is dated what?

6 A. October 14th of 2011.

7 Q. Why don't we go to 1302.

8 Do you see at the bottom, that same e-mail from Natalie  
9 Dempsey at the bottom?

10 A. Yes.

11 Q. Crystal Cram writes something. Do you see her e-mail?

12 A. Yes.

13 Q. She writes, "Are we getting these documents in play as is  
14 or are we still waiting for approval of some sections?"

15 Do you see that?

16 A. Yes.

17 Q. Let's move up.

18 How does Natalie Dempsey respond?

19 "The arbitration sections are still not approved."

20 Do you see that?

21 A. Yes. "Not yet, heading back to work tonight, will look at  
22 it."

23 No, that's not her.

24 "The arbitration sections are still not approved unless Tim  
25 has told you otherwise."

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Porting - Direct

1 Q. Why don't we go to the top e-mail. Who is that top e-mail  
2 from?

3 A. Tim Muir.

4 Q. Who does Tim Muir write?

5 A. "Not yet, heading back to work tonight, will look at it."

6 Q. Very quickly, 1303.

7 Do you see at the bottom there Natalie Dempsey's e-mail,  
8 one of the ones you just looked at?

9 A. Yes.

10 MR. VELAMOOR: Why don't we blow that up quickly.

11 Q. The e-mail where she said, "The arbitration sections are  
12 still not approved."

13 Do you see that?

14 A. Yes.

15 Q. Ultimately, this whole chain is forwarded to who?

16 A. Scott Tucker.

17 Q. At any point was your company asked to do a research  
18 project on different state laws?

19 A. Yes.

20 Q. When was that?

21 A. I believe it was in the spring of 2005 with Anita Finney.

22 Q. What was the project?

23 A. She said that we were looking up information on the  
24 different states and what it would cost and what was needed to  
25 do payday loans in that state.

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Porting - Direct

1 Q. Did you do that research project?

2 A. I started working with her on it. She was having me go on  
3 the Internet and get information for different states. I  
4 started it.

5 Q. Who was that project ultimately for, to your knowledge?

6 A. She told me it was for Scott Tucker.

7 Q. Did you complete it?

8 A. No.

9 Q. Why not?

10 A. Not too long after we started it, she said we were stopping  
11 it.

12 Q. Was it her decision to stop or someone else's?

13 A. I believe it was Scott's.

14 Q. Now, you mentioned earlier that Tim Muir joined the  
15 company?

16 A. Yes.

17 Q. After he joined, did he ask you to sign anything?

18 A. Yes. A confidentiality statement, I believe.

19 Q. Was it a confidentiality agreement?

20 A. Agreement.

21 Q. What did the agreement say?

22 A. I don't know.

23 Q. Did you sign it?

24 A. I did sign it. We weren't allowed to read it.

25 Q. Who didn't allow you to read it?



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Porting - Cross

1 A. Tim Muir.

2 Q. What, if anything, did he say about it?

3 A. He said that we weren't to discuss company business, that  
4 we needed to sign this if we wanted to keep our job, and it was  
5 serious; if we didn't sign it, we would be sued personally for  
6 a million dollars, and it would happen if we violated it.

7 Q. How long did you stay at the company for?

8 A. For nine years.

9 Q. How did you leave the company, what happened at the end?

10 A. I was let go. I think they hired someone else for the  
11 compliance department so I was replaced.

12 Q. Approximately when was that?

13 A. April, the end of April of 2012.

14 MR. VELAMOOR: No further questions, your Honor.

15 THE COURT: Cross-examination.

16 CROSS-EXAMINATION

17 BY MR. BATH:

18 Q. Ms. Porting, do I understand that you believe that Tim came  
19 sometime in 2006?

20 A. As much as I can recall, yes.

21 Q. At some point in time, there was a meeting with him and you  
22 say he said don't send any e-mails?

23 A. Yes.

24 Q. Yet we have seen lots of e-mails?

25 A. Correct.

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Porting - Cross

1 Q. So that obviously changed at some point?

2 A. There were some e-mails sent, but I was told specifically  
3 not to send them.

4 Q. Did that ever change?

5 A. I was never told to specifically begin sending e-mails  
6 again.

7 Q. You said your communication with Tim was typically  
8 face-to-face?

9 A. Yes. At some point I was told to communicate with Chris  
10 Muir instead of Tim, that everything would go through Chris.

11 Q. Before that, I think you testified your contact was  
12 typically face-to-face with Tim, is that right?

13 A. Typically, yes.

14 Q. So in what years are we talking?

15 A. I believe 2006, 2007. I'm not really sure.

16 Q. Do you know when it changed?

17 A. That I'm not sure of either.

18 Q. So for at least two years you had face-to-face  
19 communication with Tim?

20 A. I believe so.

21 Q. Could you come by his office, is that how it worked?

22 A. Yes, or I went through Anita Finney, my boss.

23 Q. At that time in '06 or '07, how big was the company?

24 A. I'm not sure.

25 Q. Did it continue to grow?

H9Q8TUC6

Porting - Cross

1 A. It did.

2 Q. Significantly?

3 A. Yes.

4 Q. Obviously, the more people who were involved, the more work  
5 for everybody, is that right?

6 A. Correct.

7 Q. At some point you went through Chris Muir, which he worked  
8 for Tim?

9 A. Correct.

10 Q. You testified earlier about the complaints, and you showed  
11 us that one e-mail with the total number of complaints,  
12 correct?

13 A. Correct.

14 Q. We have to know how many loans were made in a total year to  
15 understand what that percentage means, correct?

16 A. Correct.

17 Q. There was a time you kept track of that information, didn't  
18 you?

19 A. Yes.

20 Q. If you need something to refresh your memory, you let me  
21 know. But would you agree that the complaint rate was one  
22 percent or less?

23 A. I believe that was true.

24 Q. So if they made five million loans in one year, the  
25 complaint numbers were one percent or less?

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1 A. I believe that is true.

2 Q. Do you know how many loans in 2010 were made?

3 A. No, I do not.

4 Q. Or 2011?

5 A. I don't. I'm sorry.

6 MR. BATH: That's all I have. Thank you.

7 THE COURT: Any redirect?

8 MR. VELAMoor: Two questions, your Honor.

9 REDIRECT EXAMINATION

10 BY MR. VELAMoor:

11 Q. Ms. Porting, you were in the compliance department, right?

12 A. Correct.

13 Q. And most of your work involved complaints from states and  
14 the Better Business Bureau, correct?

15 A. Correct.

16 Q. Mr. Muir knew that's what your job involved, right?

17 A. Correct.

18 Q. And you understood his instruction was to you personally  
19 not to e-mail him about those things, right?

20 A. Correct.

21 MR. VELAMoor: No further questions.

22 THE COURT: You may step down.

23 (Witness excused)

24 THE COURT: Ladies and gentlemen, it's 4:57. We are  
25 going to take an early break tonight. Please don't discuss the

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1 case among yourselves or with anyone. Keep an open mind. Have  
2 a pleasant evening. Thank you for being such a hard-working  
3 jury.

4 (Jury exits courtroom)

5 THE COURT: What does the government think I should do  
6 with regard to the note from Juror No. 5?

7 MR. SCOTTEN: Your Honor, I think if you want to  
8 answer the juror, I think we can agree that we wouldn't sit  
9 those days if the trial goes that far. I wouldn't imply a  
10 certainty that it would go that far.

11 THE COURT: What is the defendants' position?

12 MR. GINSBERG: It's not a legal answer that we don't  
13 care, but I think that we are fine with whatever the Court  
14 chooses to do. We don't have a strong view. It looks like we  
15 are going to run into that.

16 THE COURT: The alternatives are to break for that  
17 period or obviously to excuse the juror. We have six  
18 alternates so we have that option. That's why it's a  
19 presenting question that arises next Wednesday.

20 MR. GINSBERG: I think I should be more definitive. I  
21 think our preference would be to keep him on the jury now and  
22 see how the rest of this weeks goes and the beginning next  
23 week. There are things that are pending that could change,  
24 whether we are going to run through that, or it might even be  
25 shorter.

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1 THE COURT: OK. Let's see what happens then. We will  
2 ride it out a little longer.

3 I don't know whether this issue also applies to one of  
4 our other jurors. I think it's Juror No. 12, perhaps.

5 MR. GINSBERG: I can only tell you, if it helps, not  
6 everybody is that observant. It's a smaller group. I would  
7 like to now say that I am that observant so we can take those  
8 days off, but I think it's a little late in the game for me to  
9 do that.

10 THE COURT: Understood, Mr. Ginsberg. I am generally  
11 familiar with that, but your suggestion that we hold off making  
12 any definitive decisions is not a bad one. So let's see how  
13 things go.

14 Have a very pleasant evening. See you tomorrow.

15 (Adjourned to September 27, 2017, at 10:00 a.m.)  
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